



Extract from the report to the
Public Accounts Committee on
the use of special advisers

December
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I. Introduction and results

1. Since the end of the 1990s, the ministers' use of special advisers has been the object of keen interest. The interest has in particular been focused at the advisers' relations with the political party and party organization of the respective ministers, their remuneration and the differences in the requirements to government officials in general and to special advisers. In connection with the general election in 2007, the fact that special advisers were campaigning for their respective minister and the minister's political party and drawing salary from the ministry at the same time was criticized.

2. On 10 December 2008, the Public Accounts Committee asked Rigsrevisionen to examine the use of special advisers, often referred to as "spindoctors", and the extent to which and in what manner the Government has followed up:

- Report No 1354/1998 on "The Relationship between Minister and Civil Service";
- Report No R 2 of 4 October 2001 on "Certain Questions Relating to Civil Service Advice and Assistance to the Government and its Ministers";

and in particular

- Report No 1443/2004 on "Civil Service Advice and Assistance".

Among the issues that Rigsrevisionen was asked to address were:

- The number of special advisers employed by alternating governments since 1998.
- Consistency between the actual number of special advisers employed and the number indicated on the web site of the Prime Minister's Office.
- To which extent are the special advisers subject to the managerial responsibility of the permanent secretary and do the special advisers exercise management control over permanent civil servants?
- Remuneration policy for special advisers and their average pay.
- Have the special advisers been employed on standard contracts since these were implemented?
- Can it be confirmed that special advisers have been given notice of discharge and been suspended on the announcement of a general election?
- The nature of the information presented to the Folketing on special advisers in connection with interpellations, consultations, committee questions and questions from members of the Folketing.

3. The overall objective of the examination was to examine the special adviser arrangement. Rigsrevisionen has structured the examination into three sub-sections based on the Public Accounts Committee's questions, which were mainly relating to Report No 1443 from June 2004:

According to Report No 1443, the characteristic of **Special advisers** are as follows: 1. their employment is tied to the minister's term in office, and 2. they are employed in staff functions with authority to exercise managerial control over permanent civil servants outside the staff function.

- How and to what extent has the Government followed up reports presented to the Folketing?
- Have the ministries followed the recommendations and guidelines of Report No 1443 and complied with the initiatives taken by the Government with respect to the use of special advisers?
- The nature of the information presented to the Folketing on special advisers.

MAIN FINDINGS AND CONCLUSIONS

Report No 1354 from 1998 on the relationship between minister and civil service was not followed up with special guidelines in the period 1998 - 2001. In consequence, administering the use of special advisers was left to the individual ministries' discretion.

However, the Ministry of Justice started a project on "certain questions relating to Civil Service advice and assistance to the Government and its Ministers" which resulted in Report No R 2 of 4 October 2001.

With the change of Government in 2001, the recommendations of Report No 1354 were implemented in a guideline, which the Prime Minister announced as a cabinet decision in November 2001. The first standard contract for special advisers followed shortly after.

In 2003, the Folketing appointed an Expert Committee to analyse and assess the need for a more explicit formulation of issues in regard to civil servants employed as special advisers. The Expert Committee submitted its Report No 1443 in June 2004.

Also in 2004, the Prime Minister summed up the recommendations of the Expert Committee, and the Permanent Secretary of the Ministry of Finance issued a circular letter on the implementation of the Prime Minister's decision to the permanent secretaries of the other departments. A revised version of the standard contract for special advisers was also issued in 2004.

The Government initiatives are in compliance with the recommendations of Report No 1443.

The ministries have followed the Government guidelines for employment and use of special advisers since 2001, and Rigsrevisionen has only detected a few inconsistencies in practice concerning discharge and re-appointment of special advisers on the announcement of a general election. According to the Prime Minister's Office and the Ministry of Finance, these inconsistencies will be resolved when a pending guideline and a new standard contract for special advisers are introduced, probably early in 2010. Therefore no new initiatives based on the recommendations of Report No 1443 are required at the moment.

The Folketing has expressed a very keen interest in the use of special advisers and their terms of employment, including remuneration, which is reflected in the many interpellations, consultations and questions from the MPs.

This overall assessment is based on the following findings:

The Government launched several initiatives in 2001 and 2004 based on the recommendations of Report No 1354 from 1998, Report No R 2 from 2001 issued by the Ministry of Justice in 2001, and Report No 1443 from 2004.

The initiatives were referred to in the Prime Minister's announcements from 2001 and 2004 to his ministers. The announcements were supported by circular letters issued by the Prime Minister's Permanent Secretary and the Permanent Secretary of the Ministry of Finance, and standard contracts for special advisers issued in 2001 and 2004.

The Government has thus acted upon the recommendations of Report No 1443 from 2004.

- Report No 1354 from 1998 on the relationship between minister and civil service was not followed up with special guidelines in the period 1998 - 2001. It was therefore left to the discretion of the individual ministry to implement the recommendations of Report No 1354 in regard to employment and use of special advisers.

Late in 2001, the Prime Minister defined certain guidelines for the ministries' use of special advisers.

Rigsrevisionen has compared the Government's guidelines issued in November 2001 with the recommendations of Report No 1354 and has established that the Government has followed the recommendations of the Report concerning *temporary* employment in the *private secretariats of ministers*, *no right to exercise management control* and *posting of vacancies*, which are all included in the Government guideline.

- The recommendations of Report No 1443 have been implemented by the Government in the shape of a new standard contract, an introduction programme for special advisers, and more openness and transparency in relation to the employment of special advisers. The two former recommendations were implemented in the Prime Minister's summary of the Expert Committee's recommendations to his ministers, and the latter was implemented in a circular letter from the Permanent Secretary of the Ministry of Finance to the permanent secretaries of the other departments.

The ministries' use of special advisers is in compliance with the Government's initiatives and thereby also in compliance with the recommendations of Report No 1443. The ministries are now using the standard contract for special advisers. The special adviser is subject to the managerial responsibility of the permanent secretary and has no right to exercise management control over permanent civil servants, with the exception of civil servants with press-related tasks. Lastly, the special advisers are discharged and suspended on the announcement of a general election. However, Rigsrevisionen needs to add that the majority of the special advisers presently employed by the Government have not attended a course in public administration, as recommended in the Report, because such a course has not been arranged since 2006.

The examination shows that three of the ministries have considered the concept of severance pay, and practice has differed with respect to repayment of salary received during the suspension period. The different practices are, however, not in conflict with the guidelines.

Severance Pay compensates the departing employer for instance for loss of seniority, the inconvenience of having to find a new job, and the uncertainty related to losing one's source of income.

- The exact number of special advisers cannot be determined for the years preceding the introduction of the first standard contract late in 2001. In the years 2002 - 2009, the average annual number of special advisers employed on a contract was 18. Today all the ministries are employing a special adviser, with the exception of the Ministry of Refugee, Immigration and Integration Affairs and the Ministry of Ecclesiastical Affairs.
- The Prime Minister's Office has collected data on the special advisers since 2004. The data are published on the Prime Minister's web site. However, the web site does not include historical data and Rigsrevisionen has therefore only been able to check whether the data on special advisers currently in the service of the Government are included on the web site. The web site was fully updated when Rigsrevisionen checked it. It rests with the individual ministries to forward relevant information on their special advisers to the Prime Minister's Office. The Prime Minister's Office is reminding the ministries to submit the information.
- In the period under audit, two standard contracts have been used; the first one was introduced at the end of 2001 and the second one at the end of 2004. All the ministries but two have used the current standard contracts for special advisers. The Prime Minister's Office and the Ministry of Finance are already using the impending standard contract.
- The salary of special advisers is determined by the ministries on the basis of the advisers' qualifications and the tasks they are hired to perform. Also information from other ministries on the salaries they are paying their advisers is taken into consideration. The base salary as stated in the AC national collective agreement (the Danish Confederation of Professional Associations (umbrella organization for academics)) or the national collective agreement for journalists is supplemented with often relatively large allowances. In mid-2009, a special adviser was on average paid just under DKK 80,000 per month, corresponding to an annual salary of approximately DKK 960,000. Wage dispersion is relatively large. In addition to the fixed salary, approximately 40 per cent of the special advisers also received one-off payments for overtime in spite of the fact that they already received a fixed allowance to compensate for overtime and/or additional work. One-off payments motivated by additional work are not in compliance with the terms of the standard contract.
- According to the ministries, the special advisers are all subject to the managerial responsibility of the respective permanent secretaries, and they are not authorised to exercise management control over the permanent civil service, with the exception of civil servants with press-related tasks.
- All special advisers presently employed in the departments are placed in the private secretariats of ministers or in similar staff functions, as recommended in Report No 1443.
- The special advisers are providing advice within media/communications, political-tactical issues and performing tasks in relation to the minister's party. From the estimates of time usage prepared by some of the ministries, it appears that the special advisers are spending most of their time performing tasks for the minister/ministry, and that the work performed for the minister's party is related to the minister's party work and not to work for the party in general. This is in compliance with the recommendations of Report No 143.

- Three of the ministries have considered the use of severance pay. The examination shows different practices concerning severance payments to special advisers being re-appointed after a general election and/or cabinet reshuffle. Special advisers are entitled to three months' severance pay when they are suspended regardless of whether the special adviser takes up a new position in the suspension period. However, the Ministry of Finance is of the opinion that special advisers should not be entitled to severance pay if they are reappointed to the same position, as the suspension is cancelled at the same time. The purpose is to avoid that the Government is paying double salaries. The practice of the Ministry of Finance will be specified in the impending "Guideline concerning the employment of special advisers".
- The special advisers were discharged and suspended upon the announcement of the 2007 general election.

The practice of the ministries differed with respect to repayment of severance when a special adviser was being re-appointed. Special advisers employed on the 2001 contract were not, in accordance with the contract, required to repay severance. Special advisers employed on the 2004 contract, which reserves the ministry the right to require repayment of severance, had either received no pay for the work performed for the parties during the election campaign, or the ministry had required repayment of severance. Only one ministry did not require repayment of severance after a legal assessment of the case.

- Rigsrevisionen has established that six special advisers have had other paid occupation to a varying extent in 2008. Just like the permanent civil servants, special advisers may take up outside paid engagements provided that they are not incompatible with the proper discharge of their primary duties. The assessment of the compatibility is made by the special adviser's minister in consultation with the permanent secretary, cf. Report No 1443.
- The majority of the special advisers have not attended a course in public administration, as recommended in Report No 1443 and stipulated in the standard contract that was drawn up in accordance with the Report. The most recent course was held in 2006 and the next course is scheduled for early 2010.
- The planned impending guideline and the new standard contract will align the employment terms for special advisers, also in regard to severance pay and repayment of severance. In the future, reappointment to the same position or a similar position in another ministry will not trigger severance pay (and thereby double salary). And in the future, the special advisers will be required to repay severance if they have earned an income during the suspension period. Rigsrevisionen therefore recommends that the ministries should use the new standard contract including the guideline at the first given opportunity. If the ministries follow this recommendation, no new initiatives concerning the use of special advisers seem to be required at the moment.

The Folketing has in particular in recent years been extensively informed on the use of special advisers, their employment terms and work tasks. The information has been provided at request. Several of the subjects that were discussed by the Folketing in the years up to 2004 have subsequently been addressed by the Government initiatives. For instance, the Government has created more openness and transparency in relation to the employment of special advisers, and a new standard contract has been implemented.

- The Folketing has received much information on special advisers. Rigsrevisionen has established that the MPs have asked almost 300 questions in relation to in particular the terms of employment and salary conditions for the special advisers. Furthermore the MP's asked 91 questions about the use of special advisers and 17 questions relating to individuals.

Lastly, Rigsrevisionen has established that some of the subjects that were discussed by the Folketing in the years up to 2004 have been addressed by the initiatives implemented by the Government, in compliance with the recommendations of Report No 1443.