DOI 10.52468/2542-1514.2022.6(1).63-76

EVOLUTION OF THE CONSTITUTIONAL LEGAL STATUS OF THE FEDERAL TERRITORY OF THE DISTRICT OF COLUMBIA, USA: CONSTITUTIONAL LEGAL RISKS

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Article info
Received –
2021 October 15
Accepted –
2021 December 10
Available online –
2022 March 20

Keywords
Federal territory, District of Columbia, US Constitution, constitutional risk, autonomy, political rights, constitutional reform

The subject. The article analyzes seven stages of the evolution of the constitutional legal status of the first federal territory in history - the District of Columbia, USA. In the course of this analysis, the author formulates the constitutional legal risks of the existence of federal territories in the state. From the standpoint of identifying constitutional legal risks, an amendment to Article 67 of the Constitution of the Russian Federation on the possibility of the formation of federal territories on the territory of Russia is also analyzed.

The purpose of the paper is to identify constitutional legal risks in terms of the existence of federal territories using the example of the centuries-old struggle of the District of Columbia for autonomy.

The methodology of the study includes general scientific methods (analysis, synthesis, description) and legal methods. In addition to this, historical method was also applicable.

The main results and scope of their application. The author realized, that a certain constitutional risk exists when the federal territory is established as a special public-law entity, because the evolutionary process of the constitutional-legal status of the first federal territory, that was established in constitutional law – the District of Columbia in the United States of America, demonstrated such risk. The author describes seven different stages of the evolutionary process of the DC's constitutional legal status in its pass to autonomy and full political rights: (1) 1800–1870; (2) 1871 – June of 1874; (3) 20 of June 1874 – 1967; (4) 1967–1973; (5) 1973–1983; (6) September of 1983 – 2016; (7) since 2016 until now.

According to these periods, since 1801, DC residents, bound by all obligations of American citizenship, want to be equal to the rest of America's citizens. The United States is the only democratic country in the world today that denies the right to vote for a representative of the capital in the Congress. The Statehood of Washington, DC will correct a long-standing historical injustice that is unique in its nature among all capitals in the world.

The author also proposes to consider as a constitutional risk the possibility of negative consequences (legal damage) for the subjects of constitutional law due to the contention of constitutional values.

In addition to this, the author concluded, that there is a risk that the Council of the Federal Territory "Sirius" will lose its representative character due to the absence of the established dependence of the number of elected Council members on the number of voters, as happened in the District of Columbia, where a fixed number of Council members (13) is also established, which cannot be changed by the district and which does not depend on the population living in its territory. It is also necessary to take into account the constitutional risk of the federal territory striving for autonomy within the federation, especially in the case of the formation of a local community on its territory.

ISSN 2542-1514 (Print)

1. Introduction.

One of the results of the 2020 constitutional reform was the appearance in the Constitution of the Russian Federation the category “federal territory”. In according with part 1, article 67 of the Constitution of the Russian Federation, federal territories may be created on the territory of the Russian Federation in accordance with federal law. At the same time, the organization of public authority in the federal territories is established by federal law.

The first federal law about the first federal territory in Russia "Sirius" was adopted in December 2020 - Federal Law of December 22, 2020 No. 437-FZ "On the federal territory "Sirius" (hereinafter referred to as the federal law)[1]. In according with part 1, article 2 of this federal law, the federal territory "Sirius" is recognized as a public legal entity of national strategic importance, in which, in accordance with federal law, in order to ensure the integrated sustainable socio-economic and innovative development of the territory, increase its investment attractiveness, the need to preserve the Olympic sports, cultural and natural heritage, create favorable conditions for the identification, self-realization and development of talents, the implementation of the priorities of the scientific and technological development of the Russian Federation, the features of the organization of public authority and the implementation of economic and other activities are established. Thus, the federal territory is a public legal entity created for specific purposes. As a scientific hypothesis, let us assume that the presence of a certain specific goal underlies the allocation of a territory, governed in a special way with the direct participation of the central public authority in the state.

Taking into account the adoption of the federal law, scientific interest consists in study various aspects of this new category for domestic constitutional law, including its comparative legal aspect.

As noted by N.V. Vasilyeva, S.V. Praskov and Yu.V. Pyatkovskaya, for a state with such a long and diverse territory, rich history and multi-ethnic composition as Russia, any symmetrical territorial structure will be partially fictitious, and therefore, in terms of content, the innovation in the form of a federal territory seems to be completely appropriate [1, p. 125]. Before the constitutional reform, some authors expressed the idea about development of the regions of Siberia and the Far East of Russia through the creation of federal territories [2]. After the constitutional reform, the focus of attention of scientists has shifted to the organization of public authority in the federal territory and its relationship with the system of local self-government and the federal structure [3; 4; 5; 6; 7].

It is obvious that the speed of the implementation of the constitutional reform probably did not allow scientists to fully analyze the constitutional legal risks associated with the introduction of a special public administration of the federal territory.

2. Constitutional legal risk: concept and meaning.

It is obvious that there are no risk-free activities, in connection with which human society turns into a "risk society" [8, p. 34]. At the same time, law, being focused on the systemic regulation of social relations, plays a main role in identifying and managing risks. At the same time, the law itself and legal activity are also subject to various risk factors.

In recent years, scientists have paid attention to the problem of legal risks. In particular, we should agree with the team of authors of the Institute of Law, Social Management and Security of the State University of Udmurtia, that the risks in law remain without attention, despite the fact that they give rise to certain problems and conflicts in practice. [9, p. 4].

Risk in law can be defined as inherent in human activity, objectively existing and, within certain limits, capable to regulating the probability of incurring negative consequences by the subjects of legal relations, connected with various prerequisites (risk factors) [10, p. 8]. At the same time, law acts as a universal means of legal risk management and acts in a dual way: it stabilizes the situation of choice (for example, between legitimate and illegal risk) or, on the contrary, enriches the choice of a risky subject

[1] Collection of legislation of the Russian Federation. 2020. No. 52 (part I). Art. 8583.

with various options, diversifies risks, provides freedom in taking risk (the right to risk) [10, p. 9].

A special and most significant place among legal risks, as V.V. Kireev write, belongs to constitutional and legal risks [11, p. 71]. Yu.A. Tikhomirov and S.M. Shakhrai note that the destructive potential of constitutional risk is systemic in nature, since the consequences of this risk can be expressed in the appearance of other risks, as well as in violations of the law in various spheres of society, and therefore the foresight of such risks requires the consistent activity of all institutions of the state and civil society [12, p. 20]. Consequently, the timely identification and management of constitutional legal risks is very important due to the scale of their destructive potential for other types of social relations.

The study of risks in law is devoted to the corresponding section of scientific knowledge - legal riskology, in which recently scientists have expressed ideas about the formation of constitutional legal riskology [11, p. 71-76; 13], which studies direct constitutional legal risks. Thus, over the past decade, the number of studies, devoted to risks in constitutional law, has sharply increased [14; 15; 16; 17; 18; 19; 20]. There are researches, devoted to risks in municipal law [21]. This trend should be assessed positively, since the study of risk and ways to manage it in constitutional law will have a positive systemic effect, aimed at preventing the occurrence of legal anomalies in various spheres of society and areas of legal regulation.

At the same time, a systemic scientific knowledge in the field of constitutional legal riskology has not yet been formed.

V.V. Kireev describes constitutional legal risk as follows: “constitutional risks arise when there is uncertainty, which manifests itself in the fact that not the only option for the development of any constitutional legal and social processes mediated by them is possible” [13, p. 28]. According to T.S. Maslovskaya, risk in constitutional law is a kind of legal risk, which is characterized by a special sphere of occurrence (adoption and implementation of constitutional norms) [14, p. 18-19]. In her monograph, A.E. Novikova indicates that risk as an object of constitutional legal science is a category that is meaningfully interpreted on the basis of theoretical and practical provisions, systematized by socio-humanitarian sciences - this is the dialectical unity of the negative and positive aspects, expressed as in the uncertainty of the onset of unfavorable consequences, and the probability of achieving the result, planned by the subjects of constitutional legal relations, taking into account the possibility of deviations from it, due to objective and subjective factors [22, p. 28]. Such an unfavorable consequence in constitutional law is the risk of appearing a constitutional conflict. For example, Yu. A. Tikhomirov notes that “constitutional risk is sometimes expressed in a confrontation between the authorities and in tendencies towards excessive centralization, weakening of the institutions of the political system and institutions of civil society” [23, p. 13]. The constitutional risk, perhaps, is expressed in this, but at the same time, we believe that risk should not be identified with the unfavorable phenomenon itself, the probability of which is the risk.

Taking into account theoretical developments in the field of legal riskology, it is possible to propose the following definition of constitutional risk, which entails the onset of a constitutional conflict: this is the probability of negative consequences (legal damage) for subjects of constitutional law due to opposition to constitutional values.

A certain constitutional risk exists when a federal territory is established as a special public legal entity, which will be further established in the course of studying the process of evolution of the constitutional legal status of the first federal territory in constitutional law - the District of Columbia in the United States of America [24, p. 13]. The study of the evolution of the constitutional legal status of this federal territory is also relevant, because the American experience in creating federal territories was taken into account, when preparing the corresponding amendment to the Constitution of the Russian Federation[2].

3. Constitutional legal regulation of the status of

[2] Klishas A.A. The “federal territory” initiative deserves special attention. URL: http://council.gov.ru/services/discussions/blogs/113261/ (date of access: 07.18.2021).

ISSN 2542-1514 (Print)

the district in the US Constitution.

In order to establish the reasons for the appearance of the federal territory in the US Constitution, as well as the stages of evolution of its constitutional legal status, the author analyzed the primary sources: regulatory legal acts, letters and essays of the Founders, various bills submitted to the US Congress - based on the materials of the National Archives of the United States, Library of Congress and Congressional Legislative Support Systems. Certain normative legal acts and sources have been translated into Russian for the first time in order to include them in scientific area.

The first mention of a territory governed directly by the federal government appears in the US Constitution of 1787. Article 1, part 8 of the United States Constitution provides that the United States Congress shall exercise exclusive legislative power in all cases in such district (not exceeding an area of 10 square miles) which, as a result of the cession of certain states and the approval of Congress will become the seat of the government of the United States[3].

A question arises, why the federal government (in its American sense) and, accordingly, the capital of the new state could not be located on the territory of any state and an existing city? One of the authors of the American constitution, James Madison[4], explained the need for a "federal district" under the exclusive jurisdiction of Congress and separate from the territory and powers of any state: «Authorities could offend with impunity not only state power, but also interrupt its work; and the dependence of the members of the federal government on the state in which the seat of government is located, for protection in the performance of their duties, may arouse in other states the suspicion of a fear or influence equally unacceptable to the government and unsatisfactory to other members of the federation»[5].

J. Madison's fears about interference in the exercise of state power were not unfounded. Thus, the historical fact is known that in June 1783, a few years before the adoption of the US Constitution, there was a rebellion in the state of Pennsylvania (also known as the Philadelphia rebellion). The soldiers of the Continental Army were exhausted, the British Army had surrendered at Yorktown, Virginia, two years earlier, effectively ending the War, but the soldiers remained in service while negotiations continued in Paris. Soldiers had not been paid their full salaries for years for their service, and when the Continental Congress passed legislation to discharge them, they suspected that this would never happen. In this regard, on June 21, 1783, about 400 angry soldiers surrounded the building in Philadelphia, where Congress sat (The Independence Hall), frightening a significant number of its delegates. Alexander Hamilton and other Congressional leaders urged the government of Pennsylvania to send more friendly troops to defend it, but the state refused. The next day, Congress announced that it was relinquishing the Philadelphia location in favor of Princeton, New Jersey [25, p. 24; 26; 27].

The significance of this event in the history of the United States is great, since it can be dated from the first decisive indication of the Founders to the permanent seat of government, in other words, the need to create a national capital under the sole and exclusive control of Congress and independent of any government control and influence territory[6] [28, p. 290-291].

Thus, the constitutional norm about the district - a special controlled federal territory, appeared to a

[3] The Constitution of the United States: A Transcription. URL: https://www.archives.gov/founding-docs/constitution-transcript (date of access: 20.12.2021).

[4] James Madison - fourth President of the United States, one of the authors of the US Constitution and the Bill of Rights.

[5] The Federalist № 43. The Same Subject Continued: The Powers Conferred by the Constitution Further Considered, written by: James Madison, January 23, 1788. URL: https://www.heritage.org/the-constitution/report/the-constitution-and-the-district-columbia (date of access: 26.12.2021).

[6] Harvey W.Crew. Centennial History of the City of Washington, D.C. With Full Outline of the Natural Advantages, Accounts of the Indian Tribes, Selection of the Site, Founding of the City ... to the Present Time, 1892. URL: https://archive.org/details/centennialhisto00woolgoog (date of access: 26.12.2021).

certain extent out of fear, or out of obvious fear for the activities of the highest state authorities in America.

This incident made an indelible impression on the authors of the American constitution. It was invoked over and over again by its creators in defending the "federal city" provision, which the anti-federalists stubbornly presented as a source of corruption and usurpation of power[7].

At that time, it was widely believed that a “federal city” should be built “from scratch” or formed on the basis of a small city [29, p. 7]. At the same time, it was emphasized that since this place should be a reflection of the "Common mind of America", it cannot be the capital of the state or any major industrial center, since the combination of the capitals of the state and the federation in one place can lead to disputes over jurisdiction [30, p. 377-379].

By the time the US Constitution was adopted, the exact location of the capital of the new state had not actually been determined. During the years 1770-1780. the capital of the United States "moved" through the cities of the east coast and for some time it actually remained in Philadelphia, then in Annapolis (1783-1784), and later in New York (1785-1790).

With the passage of the US Constitution, the search for a permanent seat of government continued, and in September 1789, several petitions went to Congress. One of them concerned the very popular idea of recognizing the city of Philadelphia, Pennsylvania as the permanent capital of the country. At the same time, one of the Pennsylvania senators, Robert Morris, who was a merchant from Philadelphia and therefore deeply interested in the permanent transfer of the federal government with its busy business and patronage to Philadelphia, made a proposal to Congress for the use of all public buildings in Philadelphia, as well as property state in the event that Congress is inclined to choose that city as the seat of the federal government[8]. In total, the US Congress considered about 12 possible locations for the state capital.

With the passing of the D.C. Residence Act on July 16, 1790[9], it was determined that the site on the Potomac River would become the permanent capital and seat of the US government in 10 years, and until then, Philadelphia, Pennsylvania was designated as the temporary capital. At the same time, the House of Representatives approved such a transfer of the federal government by 32 votes to 29, thus, the fate of the location of the American capital was decided by only 3 votes. This difficult vote in passing this act is known as the "Compromise of 1790" between Southern representatives Thomas Jefferson and James Madison and Northern representative Alexander Hamilton[10]. In exchange for the location of the capital in the southern region, the representatives of the south withdrew their opposition to Alexander Hamilton's program, which suggested that the federal government would take on the debts of the states in the Civil War.

In 1790, the county was founded on land ceded by the states of Maryland and Virginia to the federal government. At that time, about 3,000 citizens lived in the area. During this period, people living in the federal district continued to vote in Maryland and Virginia, respectively; enjoy the full political rights, granted to all US citizens.

The choice of the exact geographic location of the new capital was left to President George Washington, who chose a site centered on the Maryland side of the Potomac River, extending almost to Mount Vernon. President George Washington took a personal interest in the

[7] The Federalist № 43 The Same Subject Continued: The Powers Conferred by the Constitution Further Considered, written by: James Madison, January 23, 1788. URL: https://www.heritage.org/the-constitution/report/the-constitution-and-the-district-columbia (date of access: 26.12.2021).

[8] Jessie Kratz. A Different Columbia as Capital City. U.S. House, U.S. Senate. URL: https://prologue.blogs.archives.gov/2021/07/16/a-different-columbia-as-capital-city/ (date of access: 21.12.2021).

[9] Act of July 16, 1790 (D.C. Residence Act), Establishing the Temporary and Permanent Seat of Government of the United States. URL: https://catalog.archives.gov/id/299948 (date of access: 21.12.2021).

[10] Jessie Kratz. The Compromise of 1790 May 31, 2015. U.S. House, U.S. Senate. URL: https://prologue.blogs.archives.gov/2015/05/31/the-compromise-of-1790/ (date of access: 21.12.2021).

ISSN 2542-1514 (Print)

development of the new capital and appointed three commissioners for temporary administration and construction. Members of the commission called the new city "City of Washington", which influenced its name. The first boundary stone was laid in 1791, and on November 21, 1800, Congress met for the first time in session in the District of Columbia. President George Washington was still directly involved in the planning and construction of the district, but he never had the opportunity to govern the country from the new capital, as he left office in 1797 and died two years later. Thus, the first president to be sworn in Washington DC was Thomas Jefferson [25, p. 26].

Since that time, the gradual evolution of the constitutional legal status of the District of Columbia begins, during which 7 stages can be distinguished. At the same time, as a vector of such evolution, it is possible to determine the implementation of the right of this public legal entity to autonomy, self-government and the exercise of the political rights of the inhabitants of the district in full.

4. The evolution of the constitutional legal status of the District of Columbia.

The first stage: 1800 - 1870. The District is under the control of federal state authorities and does not have its own public authorities.

The form of government of the federal district was discussed in Congress. One bill gave no self-government to the inhabitants, while another provided for a territorial legislature and partial self-government. In 1801, Congress passed emergency legislation dividing the district into two parts: Washington County, where the laws of the state of Maryland would apply, and Alexandria County, where the laws of the state of Virginia would apply (this part of the district was subsequently returned to the state of Virginia in 1846) [31, p. 125].

Pro-government residents of Washington organized protests, and in 1802 petitioned Congress for a municipal charter. The charter provided for the voters to elect a local legislature (called the Council) that could make laws and establish a property tax to pay for city services. The local government would also include a mayor appointed by the President.

During this period, from 1808 until 1995, a special committee for the District of Columbia in the House of Representatives (House District of Columbia Committee) begins to work[11].

Thus, from the very first stage of the existence of the District of Columbia, its inhabitants began to fight for their rights in the field of self-government of this territory, and this struggle has been going on for more than two centuries. Remind, that at the time the district was formed, about 3,000 Americans lived in this territory.

This stage of direct federal control was long and amounted to 70 years.

The second stage from 1871 - June 1874. After 70 years, a unified system of district government was established in relation to the territory of the district, which consisted of a governor appointed by the President with the consent of the Senate, and an Assembly which was appointed by the President with the consent and by council of the Senate, and the lower house was elected by the population. The federal district also had one non-voting delegate from the district in the US House of Representatives. This system of government lasted three years, because it got bogged down in debt, the administration went bankrupt and was abolished without debate by Congress [32, p. 29-30].

The third stage from June 20, 1874 – 1967. By the Act of June 20, 1874, the President was authorized to appoint three commissioners to govern the district, and the institution of a delegate from the district in the House of Representatives was abolished. During this period, the county's residents and their support in the Senate continued to campaign for self-government of the county's territory and full representation in Congress. In 1878, the district management system was slightly modified and a permanent commission became the governing body. This period, like the first one, was long and lasted until 1967.

The fourth stage from 1967 to 1973. The administrative and executive powers that previously belonged to the commission agents were transferred to the mayor; the city council, which consisted of 9 members, received some legislative

[11] URL: https://www.congress.gov/committee/house-district-of-columbia/hsdt00 (date of access: 21.12.2021).

ISSN 2658-4050 (Online)

and regulatory functions. At the same time, the mayor, vice-mayor and council members were appointed by the President.

In 1963, the county's residents gained the right to vote in elections for President and Vice President of the United States with the ratification of the 23rd Amendment to the US Constitution. Under this amendment, passed by Congress on June 16, 1960, The District, which is the seat of government of the United States, appoints a number of Presidential and Vice Presidential electors equal to the number of Senators and Representatives in Congress to which the District would be entitled if it were state, but in no case exceed the state with the smallest population; they must be in addition to those electors appointed by the states, but for the purposes of the election of President and Vice President they are considered electors appointed by the state; and they shall meet in the county, and perform such duties as are provided for in the Twelfth Amendment[12].

In 1970, the district received a non-voting delegate to the House of Representatives. While the struggle for local autonomy progressed step by step, Congress, especially the House Committee on the District of Columbia, continued to exercise greater power over the local affairs of the district.

Phase five 1973-1983. This period begins with the passage of the landmark District of Columbia Home Rule Act (Approved December 24, 1973), which goal was formulated in this way in Article 102: " In case of retention by the Congress of the supreme legislative power in respect of the capital of the state, based on article 1, part 8 of the United States Constitution, the intention of Congress is to delegate certain legislative powers to the government of the District of Columbia; to introduce the election of certain local officials by registered qualified voters of the District of Columbia; guarantee the residents of the District of Columbia the power of local government; modernize, reorganize, and otherwise improve the administration of the District of Columbia; and, to the fullest extent possible in accordance with constitutional authority, relieve Congress of the burden of enacting legislation government on issues of local importance of the district"[13].

Under this law, the residents of the county elected a mayor and council in the fall of 1974. Citizens perceived the new system of government as more representative of local residents and more responsive to their needs. The powers and responsibilities of the Council are comparable to those of the state legislatures, including the power to pass laws and approve the district's annual budget, presented by the mayor. As a legislative body, the Council is an equal branch of government and part of a system of checks and balances similar to any other state government. When the office of mayor becomes vacant, the Chairman of the Council becomes the acting mayor[14].

However, Congress reviews all laws passed by the Council before they go into effect, has veto power, and retains power to approve the district's budget. In addition, the President appoints district judges, also has veto power over acts of the District Council, and the district still has no voting representation in Congress.

In 1978, Congress passed an amendment to the Constitution for district representation in Congress with the right to vote. However, the amendment did not pass in 1985, after 38 states failed to ratify it within the prescribed time limit.

In 1980, county voters approved an initiative calling for a district constitutional convention to write a constitution, and two years later approved the constitution for the state of New Columbia, marking the beginning of a new phase of recognition for the district as the 51st state of America, New Columbia.

Stage six September 1983 – 2016. This stage began when the district formally petitioned Congress for statehood and admission to the Union as the State of New Columbia. In 1987, a Congressional delegate introduced the New Columbia State Constitution to the House of Representatives. The vote on the law to admit the new state to the Union took place in

[12] The Constitution: Amendments 11-27. URL: https://www.archives.gov/founding-docs/amendments-11-27 (date of access: 22.12.2021).

[13] District of Columbia Home rule Act. Public Law 93-198. URL: // https://dccouncil.us/wp-content/uploads/2018/11/Home-Rule-Act-2018-for-printing-9-13-182.pdf. (date of access: 22.12.2021).

[14] D.C. Home Rule. URL: https://dccouncil.us/dc-home-rule/ (date of access: 22.12.2021).

ISSN 2542-1514 (Print)

November 1993. The House of Representatives rejected the District of Columbia's application for statehood by a majority vote. Despite this decision, as M.S. Salykov write, supporters of state status regarded this vote as their great political victory, since, firstly, never before in the history of the United States did any of the houses of Congress consider this issue in plenary session, and, secondly, the number of those who voted "pro" was more than expected by about 20-30 [31, p. 133].

It should be noted what political position throughout the process of evolution of the constitutional legal status of the district was occupied by the main political parties of the United States, and what was their position on this vote in 1993. Republicans have traditionally favored maintaining the county's status quo, while the Democratic Party has supported the idea of making the district a full state.

In 2014, a new commission was created to coordinate initiatives to make the District of Columbia the state of New Columbia, - the New Columbia Statehood Commission.

The seventh stage lasts from 2016 to present days. Since the passage of the District of Columbia Act in 1973 the district began to be governed almost like any other state in the United States. In particular, there are three separate equal branches of government in the district's public power system: legislative, executive and judicial, and there is also a system of checks and balances. However, in several important areas, the district government cannot function autonomously, while the governments of the 50 states of America can. In particular, the states have the power to make laws, to create their own bodies, and freely manage the affairs of the state in the absence of influence from the federal government. States also have voting representatives in both houses of Congress, unlike district.

Also, the district does not have autonomy in the following matters:

- restriction on the composition of the District Council: only 13 members of the Council, regardless of population growth or the complexity of management;
- all district laws come into force only after approval by Congress, including annual budget. And any law of the district, without exception, can be changed or repealed by Congress.

In November 2016, a referendum was held on the territory of the district, in which 86% of the inhabitants of the district supported the formation of a new state - the State of Washington, DC (Douglass Commonwealth) - the state of Washington, the Commonwealth of Douglas[15].

Subsequently, Bill S.51 - Washington, D.C. was introduced to the Senate on January 26, 2021. Admission Act, introduced by Delaware Senator Thomas Carper[16]. It is noteworthy, that the state of Delaware was the first state that, on December 7, 1787, ratified the US Constitution with a 100% vote, including the constitutional provision on a special federal district.

The introduced bill provides for the formation of a new state of Washington, the Commonwealth of Douglas, in the United States, which includes almost the entire territory of the District of Columbia, with the exception of federal buildings and monuments: the White House, the Capitol building, the US Supreme Court and the buildings of the federal legislative, executive and judicial branches. The territory of the District of Columbia thus excluded from the territory of the State of Washington shall be called the capital (“shall be known as the Capital”) and shall contain the federal government. The bill also contains a provision that the new state recognizes that it is ready to accept autonomy and all the responsibility that comes with it.

The description of the capital in section 112(a) of the bill is as follows: "the Capital shall consist of the property described in subsection (b) and shall include the principal Federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the federal executive, legislative, and judicial office buildings". It seems to the author that this is a fundamentally new approach to defining the capital of the state not as a territory, but, first of all, as buildings that are federally owned and located on a certain territory.

[15] URL: https://statehood.dc.gov/page/faq (date of access: 23.12.2021).

[16] S.51 - Washington, D.C. Admission Act URL: https://www.congress.gov/bill/117th-congress/senate-bill/51 (date of access: 23.12.2021).

ISSN 2658-4050 (Online)

This area does not exceed two square miles and will be under federal jurisdiction as the District of Columbia, while the rest of the territory will be the state of Washington, the Commonwealth of Douglas.

Thus, only D.C. residential and commercial areas will become part of the new 51 states. At the same time, the majority of the county's residents (more than 67%) work in the private sector, not the government[17].

The bill also provides that Washington, the Commonwealth of Douglas is proclaimed a state within the United States of America, and is equal in rights with other states[18]. In addition to the bill, the Washington, DC State Constitution was drafted[19].

Separately, it must be said about the name, because in order to preserve the world-famous abbreviation "DC" to which Americans themselves are accustomed, the new state is planned to be called the "Commonwealth of Douglas" as a tribute to Frederick Douglass, the famous american politician who was born into slavery in the state of Maryland, whose territory was eventually ceded in the 18th century to create a federal district. He taught himself to read, write, and taught other slaves, after 20 years of slavery, he fled north and led the fight against slavery throughout America. Some researchers place name of Frederick Douglas immediately after Abraham Lincoln, with whom he was closely acquainted, as the most prominent Americans, who defended democratic values in the fight against slavery and any discrimination. From 1872 Frederick Douglas lived permanently in Washington [33].

An interesting fact is that after the death of President Lincoln, his widow sent F. Douglas as a gift the president's favorite cane, on which he leaned while walking, and a note in which she wrote about A. Lincoln's deep respect for F. Douglas and about his desire to make him a gift. It seems that this was a very symbolic gift [34, p. 60].

At the present time there is a very active phase of the struggle for the recognition of Washington, the Commonwealth of Douglas as the new 51 states of America. In this regard, here are main arguments of the supporters of this reform - the current mayor and the District Council, as well as a number of congressmen[20]:

1) Taxpayers in the District of Columbia pay more federal taxes per capita than any state, and collectively more federal taxes than 12 states, and pay more total federal income taxes than 22 other states;

2) The District of Columbia has approximately 712,000 residents, more than the states of Vermont (643,077) and Wyoming (576,851) and comparable to other states including North Dakota (779,094), Alaska (733,391) and some other. In any case, the US Constitution does not establish any population or territory requirements for recognition as a state;

3) the people of the District of Columbia contributed to the development of the nation, as did the inhabitants of all other states. More than 11,000 DC residents who currently serve in the military may be sent to war to fight for American values, but do not have full voting rights where they live. Since World War I, DC has sent almost 200,000 brave men and women to defend democracy abroad;

4) Washington DC has its own school system; administers its own health and social programs and also receives federal earmarked grants that states typically receive;

5) The District of Columbia passed 23 consecutive balanced budgets funded primarily by local revenues, excluding federal sources;

6) While the District of Columbia is de facto financially independent and has a $15.5 billion local budget, it is still subject to the federal appropriations process by Congress, which allows

[17] Who Lives in DC. Fixing the Hole in Our Democracy. League of Women Voters Education Fund. URL: https://static1.squarespace.com/static/56e6cad12fe13155d5243018/t/6035a8506dea1d555dcca5e9/1614129232829/01_Who+Lives+in+DC.pdf (date of access: 23.12.2021).

[18] S.51 - Washington, D.C. Admission Act. URL: https://www.congress.gov/bill/117th-congress/senate-bill/51/text#toc-HD9DDA942D048440983DE3417D95027E5 (date of access: 23.12.2021).

[19] URL: https://statehood.dc.gov/sites/default/files/dc/sites/statehood/publication/attachments/Constitution-of-the-State-of-Washington-DC.pdf (date of access: 23.12.2021).

[20] Why Statehood for DC. URL: https://statehood.dc.gov/page/why-statehood-dc (date of access: 22.12.2021).

ISSN 2542-1514 (Print)

any member of Congress to impose their will on the people of the District of Columbia.

It follows from the foregoing that the county has a successful, independent, efficient and responsible government that can no longer rely on the federal government like any other city or state. In this regard, the current representatives of the public authorities of the district believe that statehood is the only remedy, that ensures full representation in Congress of the inhabitants of Washington, and call themselves: "We are Washington, the 51st state".

In her official speech, County Mayor Muriel Browser said, “Washingtonians serve America and pay more federal taxes per capita than any other state, but when the US Congress votes on issues that matter most to Americans, Washingtonians are unrepresented. It's time to fix this great civil rights injustice and give the more than 700,000 residents of Washington, DC full access to our nation's democracy."[21].

5. Conclusion.

Since 1801, the inhabitants of the District of Columbia, bound by all the obligations of American citizenship, want to be equal with the rest of American citizens. The United States is the only democratic country in the world today that denies the right to vote of representatives of the capital in the country's supreme legislative body. Making Washington statehood will correct a long-standing historical injustice that is unique in its nature among all the world's capitals.

The current Democratic President of the United States, Joe Biden, did not officially speak about the constitutional legal status of the District of Columbia, however, on June 26, 2020, the president wrote in his Twitter: “DC should be a state. Pass it on"[22].

Taking into account the evolution of the constitutional legal status of the District of Columbia, we can identify the following constitutional legal risks of establishing a federal territory: the risk of a contradiction in terms of the need for a special organization of public authority on the federal territory, on the one hand, and the realization of the rights of citizens living in a given territory to self-government and representation of their interests as a certain local community at the federal level, on the other hand. In other words, in its desire to establish a special legal regime for the administration of the territory, the state should not forget that its citizens live in this territory, in respect of which the state is obliged to guarantee equality in rights, including political ones, with other citizens living in the territory of other public -legal formations. And this risk of constitutional conflict increases in the case of an increase in population. Thus, the increase in the population of the District of Columbia from 3,000 to 712,000 people served as an objective prerequisite for the demands of the inhabitants of the district for the equality of their political rights, including their right to autonomy and representation in Congress.

In this regard, it should be noted that the Krasnodar Territory, on part of whose territory the "Sirius" federal territory was created, ranks third in the Russian Federation after Moscow and the Moscow region in terms of population growth in absolute terms for 2018-2020[23]. Despite the fact that a significant increase in the population is observed on the territory of Krasnodar, one of the fastest growing cities in Russia[24], which is not included in the federal territory, it is possible that the migration processes that have captured the entire Krasnodar

[21] Mayor Bowser Joins Congresswoman Eleanor Holmes Norton and DC Council Chairman Phil Mendelson to Announce Introduction of the Washington, DC Admission Act. URL: https://dc.gov/release/mayor-bowser-joins-congresswoman-eleanor-holmes-norton-and-dc-council-chairman-phil (date of access: 22.12.2021).

[22] URL: https://twitter.com/joebiden/status/1276285377595281408 (date of access: 22.12.2021).

[23] Kuban has become one of the leaders of the Russian Federation in terms of population growth over the past 3 years. URL: https://kuban.rbc.ru/krasnodar/freenews/606aac569a79473a3ff07acf (date of access: 12,27,2021).

[24] Rogov R. Population of Krasnodar: estimates, dynamics, forecast. May 27, 2021. URL: https://postanalitika.ru/population-of-krasnodar-2021/ (date of access: 12.27.2021).

ISSN 2658-4050 (Online)

territory may also spread to the federal territory "Sirius".

It is also worth noting that in accordance with Part 1 of Article 12 of the federal law, the Council of the Federal Territory "Sirius" is formed for a period of five years, consisting of 17 members, of which: nine members are elected in accordance with the legislation of the Russian Federation on elections on the basis of universal equal and direct suffrage by secret ballot; three are appointed by the President of the Russian Federation; three are appointed by the Government of the Russian Federation; one is appointed by the highest official (head of the highest executive body of state power) of the Krasnodar territory. Thus, the number of members of the Council of the federal territory "Sirius", elected by the population, does not depend on its size. At the same time, in accordance with Part 6 of Article 7 of the Federal Law of December 21, 2021 No. 414-FZ “On the general principles of organization of public power in the subjects of the Russian Federation”, the number of deputies of the legislative body of the subject of the Russian Federation is established by the constitution (charter) of the subject of the Russian Federation and is determined depending on the number of voters, registered in the territory of the subject of the Russian Federation. In particular, the established number of deputies must be no less than 15 and no more than 50 deputies, if the number of voters is less than 500,000 people. We do not call for equating the constitutional legal status of the federal territory and the constituent entity of the Russian Federation, however, we do not see any objective reasons, preventing the implementation of the principles of democracy and representative democracy within the boundaries of the federal territory to the same extent as they are applied on the territory of the constituent entities of the Russian Federation. Article 3 of the Constitution of the Russian Federation in this sense does not establish any territorial exceptions for the implementation of the principle of democracy even for the federal territory.

Thus, there is a risk that the Council of the Sirius Federal Territory will lose its representative character due to the absence of an established dependence of the number of elected Council members on the number of voters, as happened in the District of Columbia, where a fixed number of Council members (13) is also established, which cannot be changed by the county and which does not depend on the population, living in its territory. It is also necessary to take into account the constitutional legal risk of the desire of the federal territory for autonomy within the federation, especially in the case of the formation of a local community on its territory.

ISSN 2542-1514 (Print)

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BIBLIOGRAPHIC DESCRIPTION

Tretyak I.A. Evolution of the constitutional legal status of the federal territory of the District of Columbia, USA: constitutional legal risks. *Pravoprimenenie = Law Enforcement Review*, 2022, vol. 6, no. 1, pp. 63–76. DOI: 10.52468/2542-1514.2022.6(1).63-76. (In Russ.).