

CONSTITUTIONAL STATUS OF FEDERAL TERRITORIES IN RUSSIA: THEORETICAL FOUNDATIONS OF LEGISLATIVE REGULATION

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Article info

Received –
2020 September 14
Accepted –
2021 January 15
Available online –
2021 April 15

Keywords

Federative structure, federal territories, Sirius, territory of Russia, organization of public power

The subject of the study is the constitutional concept of federal territories in Russia.

The purpose of the article is to confirm or disprove hypothesis that constitutional status of federal territories in Russia consists of system of elements and identify such elements.

The authors use the method of formal legal interpretation of Russian Constitution, the methods of comparative constitutional law, complex analysis, systemic interpretation of Russian laws and drafts of laws.

The main results of research, scope of application. When making an amendment to part 1 of Article 67 of the Constitution of the Russian Federation, the content of this innovation was not disclosed. Therefore the federal law on federal territories will be of decisive importance. The authors define the constitutional characteristics of the federal territories based on the literal content of the constitutional norm and the conclusion of the Constitutional Court of the Russian Federation. The federal territory is an element of the state territory that is not a subject of the federal structure and has a status different from the status of the constituent entities of the Russian Federation. There are specific features of the organization of public power in federal territory. The authors' vision of the content of each of the elements of the federal territories is presented. It is noted that the defining element of the status of federal territories will be the purpose of their creation. The authors propose a conceptual division of federal territories in Russia into two types: inhabited and uninhabited. It is stated that at the moment, the status elements can be clearly defined only in relation to uninhabited federal territories. The formation of the concept of inhabited federal territories will depend on definition of the purpose of their creation.

Conclusions. It is proposed to consider the elements of the status of federal territories in Russia, based on the elements of the status of the subject of the Russian Federation, and in comparison with them. Such elements are: territory, population, subjects of jurisdiction, responsibilities, state power organization, property and budget, system of taxes and fees, names and symbols, population's role in the state affairs management.

1. Introduction

One of the fundamental innovations of the constitutional reform of 2020 was the change in the provisions of part 1 of Article 67 of the Constitution of the Russian Federation, which allows creation of federal territories on the territory of Russia. The idea of complicating the territorial structure of Russia by creating macrounits [1, 2, 3] or units that are not an element of the state-territorial structure of the federation has previously been expressed in science [4, 5]. 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. This is confirmed by the number of different territorial units with a special (special) status recognized by modern legislation: closed administrative-territorial entities, administrative-territorial units with a special status, special economic zones, territories of advanced socio-economic development, etc. Therefore, the content of this innovation seems quite appropriate. What surprises me is the surprise of her appearance.

The amendment of part 1 of Article 67 of the Constitution of the Russian Federation is the only amendment aimed at regulating the territorial structure. Neither conceptually nor textually, it is not related to any other provision of the Constitution of the Russian Federation, both in the previous and in its current version. As a result, there is a complete uncertainty about the content of the status of federal territories, which is recognized both in scientific and socio-political circles [6].

Moreover, there is no political and social justification for the goals of this innovation. If the absolute majority of constitutional amendments were actively discussed in the broadest public circles, then this change is a "dark horse" in terms of the goals of its appearance. When the initiative to create federal territories in Russia was first mentioned in the press, it was noted that the Kremlin did not know about this initiative. The idea was expressed by a member of the working group on amendments to the Constitution of the Russian Federation, Chairman of the Tula Regional Duma Sergey Kharitonov. No thorough justification was

provided for this. Commenting on the initiative to introduce these amendments to the Constitution of the Russian Federation. In addition to citing foreign experience in the creation of federal territories, A.A. Klishas noted only that the circumstances that determine the need to consolidate special powers and other conditions for a special legal regime of territories in Russia are increased requirements for ensuring security, protecting and protecting the environment (for example, Lake Baikal, Caucasian Mineral Waters) or for creating conditions to increase investment attractiveness. He also noted that this issue requires detailed study and discussion with representatives of the constituent entities of the Russian Federation. To date, perhaps, this comment remains the only sufficiently official justification for the purposes of making the changes under consideration. No other prospects for the application of this initiative have yet been identified. However, the issue of regulation of federal territories in Russia has already moved from the category of scientific and public discussion to the plane of practical implementation and requires theoretical justification.

Unfortunately, at the moment, Russian state studies do not have any holistic concept of federal territories. In the literature, it is only noted that such internal state entities are characterized by being under the direct control of the central authorities [7, p. 31], which, first of all, is manifested in the absence of elected authorities formed independently of the central authorities, as well as their own subjects of competence.

It is unlikely that the foreign experience of creating territorial units in the federation that are not subjects of the federation can become a clear guide, since the analysis of world practice shows that there is no single approach to federal territories. These are completely different territorial units, both in size, geographical characteristics, and in terms of population and its composition. The system of management of these territories is also unique, it is caused by many factors, as a result of which the degree of independence of federal territories can range from approaching the limited sovereignty of a state-territorial entity, to the complete absence of self-government, replaced by federal administration (including through the

creation of special federal authorities) [8, p. 1549].

In this regard, in domestic practice, there is a high probability of developing the status of federal territories through legislative trial and error. This is the path that the federal legislator is currently demonstrating. The adoption of the Federal Law "On the Federal Territory "Sirius" indicates a situational solution that has not been worked out either from the point of view of theoretical justification or from the point of view of further applied implementation. Even a superficial analysis of the text of this law clearly shows the lack of understanding of the nature of the created territorial unit and its place in the system of the existing political and territorial structure of Russia. More or less clear legislative regulation is set out only in relation to the organization of public authorities.

We hope that this "pancake" will remain the only one in the practice of creating federal territories in Russia. However, if in the future the federal legislator continues the policy of determining the status of individual federal territories outside the context of the basic conceptual regulation of the status of these territorial units at the level of federal legislation, a clear understanding of the issues that require regulatory registration in relation to individual units becomes doubly relevant. In this regard, it is necessary to identify a minimum list of issues that require discussion in order to form the concept of a federal law, regardless of whether it is a basic law on federal territories or a federal law defining the constitutional and legal status of a separate territorial unit.

2. Constitutional characteristics of the status of federal territories

To determine the limits of legislative regulation, it is necessary to determine the content of the provisions of part 1 of Article 67 of the Constitution of the Russian Federation in the current version, since this is the only regulatory framework that precedes legislative regulation.

As you know, the Law of the Russian Federation on the Amendment to the Constitution of the Russian Federation supplemented part 1 of Article 67, which regulates the composition of the

territory of Russia, with two new proposals, keeping the previously valid proposal unchanged. The inclusion of the provision on federal territories in this structural part of the text of the Constitution of the Russian Federation allows us to conclude that we are talking about reforming the territorial structure of the state, and not the federal one [9]. This position is confirmed by the Constitutional Court of the Russian Federation, which in its opinion indicated that the provision on the possibility of creating federal territories cannot be regarded as contrary to Article 5 (Part 1) of the Constitution of the Russian Federation, which exhaustively defines the composition of Russia as a federal state (which, however, is not analogous to the definition of the composition of its territory – Article 67, part 1, of the Constitution of the Russian Federation). Moreover, the Constitutional Court of the Russian Federation noted that the creation of federal territories in the literal sense of the constitutional provisions does not imply the possibility of giving federal territories a status equal to that of the subjects of the Russian Federation (paragraph 2 of paragraph 3.1).

At the same time, attention is drawn to the way in which the legislator introduced the provision on federal territories: they are not mentioned in the first sentence of part 1 of Article 67 of the Constitution of the Russian Federation along with other elements of the territory of Russia: the territory of the subjects of the Russian Federation, internal waters, the territorial sea and the airspace above them. The second and third sentences of this part refer to the federal territories. At the same time, the creation of a federal territory is envisaged "on the territory of Russia", and not along with other elements of the territory of Russia. Of course, most likely, this construction of the supplement is caused by the fact that the creation of federal territories is not mandatory, but is attributed to the discretion of the federation, i.e. it is its discretionary authority. However, the literal wording of the current text of Part 1 of Article 67 of the Constitution of the Russian Federation allows for two readings:

1) federal territories may be created along with other elements of the territory of Russia. In this case, the federal territory should be considered as

an independent territorial unit that is part of the territory of Russia along with the subjects of the Russian Federation, internal waters, territorial sea and airspace;

2) federal territories may be created as part of another element of the territory of Russia (primarily as part of the territory of a subject of the Russian Federation). In this case, the federal territory should be considered as a special regime of part of the element of the territorial structure of Russia. If it is created within the territory of a subject of the Russian Federation, the federal territory should be considered as an element of the territorial structure of the subject of the Russian Federation, and not the federation as a whole.

Of course, these two interpretations lead to a completely different understanding of the nature and status of the federal Territories.

The first experience of creating a federal territory in Russia, unfortunately, does not allow us to unequivocally answer even the question of whether or not the federal territory "Sirius" is part of the subject of the Russian Federation – the Krasnodar Territory. There is no direct answer to this question in the text of the federal law. On the one hand, the law provides for the possibility of exercising the powers of the state authorities of the Krasnodar Territory in the federal territory and the operation of the relevant regional legislation, which can be interpreted as confirmation of the entry of the federal territory into the territory of the subject of the Russian Federation. On the other hand, the borders and territory of "Sirius" are defined in the law quite clearly and are not tied unambiguously to the territory of the Krasnodar Territory, and the exercise of state power in the region can only become an element of the transition period, which will be eliminated in the future. In this regard, we will proceed from the fact that the issue of the entry or non-entry of the federal territory into the territory of the subject of the Russian Federation has not yet been resolved in federal legislation.

In addition, the indicated variants of interpretation of the constitutional norm can be considered both mutually exclusive and at the same time permissible. Therefore, in the future, there may be various ways to determine the status

of federal territories. The current scientific discussion supports both the understanding of the federal territory as part of the territory of the subject of the Russian Federation [10; p. 56], and its understanding as an element of the territory of the federation along with the territories of the subjects of the federation [11, 12].

Anticipating the upcoming discussions, we note that the assumption of the possibility of creating a federal territory within the territory of a subject of the Russian Federation, in our opinion, negates the very idea of federal territories. Despite the ambiguity of the term "federal territories" [8, 13], in Russian science it denotes the elements of the territorial structure of the federation itself. The non-inclusion of a federal territory in a federal subject is its most important substantive feature. And within the framework of the world experience of building a federal state, there is no practice of creating federal territories on the territory of the subjects of the federation.

The recognition of the possibility of creating a federal territory within the territory of a subject of the Russian Federation creates a duality of its status: simultaneous entry into the territorial structure of the federation and the territorial structure of the subject of the Russian Federation. This duality, in turn, allows us to model the most unthinkable division of powers between federal, regional and local authorities. Considering with great difficulty, but still only partially solved the problem of the duality of the nature of the territory and the population of the autonomous districts that were part of another subject of the Russian Federation, it is hardly necessary to create a new territorial unit of dual nature. Therefore, in the future, we will assume that the federal territories are not part of the territory of the subject of the Russian Federation. In turn, the question of the possibility of creating a federal territory within the internal waters or territorial sea requires a separate study.

You should also pay attention to the third sentence of part 1 of Article 67 of the Constitution of the Russian Federation, which contains a reference to the federal law that should regulate the organization of public power in the federal territories. The use of the phrase "public authority" indicates that the legislator initially assumes the

features of the implementation in the federal territories of not only state power, but also local self-government. However, at this stage of understanding the constitutional status of federal territories in Russia, it is necessary to resolve the issue of the possibility of a complete absence of local self-government in these territories in the traditional sense of our science. Can direct federal government exclude the exercise of not only regional power, but also local self-government? The answer to this question is far from ambiguous. On the one hand, for any inhabited territory, the constitutional principle of democracy must be fully observed, which is expressed in ensuring the right of citizens to participate in public bodies, including at the federal level [14]. On the other hand, some authors also express the opposite position, that the amendments to the Constitution of the Russian Federation create prerequisites for the complete withdrawal of the right of citizens to exercise local self-government [15, p. 27] and not only in the federal territories [16, p.3 – 4].

It seems that the question of the possibility of the complete absence of local self-government as a special public power of the people in the federal territories and the constitutionality of such a structure deserves a separate study. Within the framework of this article, it should be noted that the specifics of the organization of local self-government in federal territories should be established by federal law, i.e. an act of the same legal force as the Federal Law "On General Principles of the Organization of Local Self-Government in the Russian Federation". Whatever these features, in order to avoid an ambiguous interpretation of the federal law on federal territories, the legislator will need to adjust the provisions of the above-mentioned law.

Thus, as a starting point for regulating the status of federal territories, the federal law should define them as units within the territory of Russia that are not elements of the federal structure and have a status other than that of a subject of the Russian Federation. At the same time, such units should not be part of the territory of the subjects of the Russian Federation and should have significant features of the organization of public power.

3. Main elements of the status of federal territories

Given that the defining feature for federal territories is their difference from the subject of the Russian Federation, the most effective is the construction of their status, based on the elements of the status of the subject of the Russian Federation. Let's consider the questions that arise on the main ones.

3.1. Population of the federal territory

The presence of a territorial collective or community is the most important system-forming feature of a public-territorial entity. So, for the state, the unity of the nation is a fundamental issue, for the subject of the federation, the issue of the social identity of the population (national, religious, territorial or other) is very important, and for the municipality, the cohesion of the local community is a vital issue. The absence of a permanent resident population means that it is unacceptable to create a public-territorial entity. However, this postulate does not apply to federal territories. On the contrary, the absence of a permanent resident population, or its insufficient number for self-government, excessive dispersion of the population across the territory, the short duration of permanent residence (changeability) residents and other similar factors that indicate the absence of a territorial collective that is interested in independently resolving issues of its public organization can become a distinctive characteristic of the federal territory. In this sense, the fundamental question for the species differentiation of federal territories should be the question of the absence (insignificant number) of a permanent resident population.

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territories should not have fundamental differences from other territories of Russia.

Finally, another important issue is related to the population – the identification of their opinion when creating a federal territory. It seems that when creating or abolishing populated federal territories, such a procedure should be mandatory and decisive. As you know, the current legislation (primarily municipal) contains many options for identifying the opinion of the population, which do not prevent the adoption of a particular management decision. However, when deciding on a fundamental change in the status of a territory, its withdrawal from the territory of a subject of the Russian Federation, it is necessary to apply imperative direct democracy, first of all, a referendum. Questions of territorial changes are always perceived by the population rather cautiously, and sometimes painfully. Therefore, the fundamental rejection of the new status by the population can destroy the territorial collective, even if it exists, and make any organization of public power ineffective. And this, in turn, will raise the question of the effectiveness of creating a federal territory.

With regret, we can state that the postulate about taking into account the opinion of the population in the formation of the federal territory "Sirius" was not taken into account.

3.2. Territory and borders of the federal territory

Unlike the subjects of the Russian Federation, the territory of the federal territories will not be determined in the order of succession. These units will be created primarily at this stage. And even if the idea of granting the status of a federal territory to already existing territorial units (for example, closed administrative-territorial entities) is accepted, then their territory in the status of a federal territory should be determined primarily, without reference to the previously existing territory and status. This is necessary in order to avoid numerous problems with the uncertainty of the moment when the boundaries are established and their description. The federal law should clearly define the legal form of approval of the description of the borders of federal

territories, as well as the requirements for such a description. Taking into account the currently accepted practice of describing the borders of municipalities and subjects of the Russian Federation, such a description should be carried out in accordance with the requirements of cadastral activity. The optimal form for the approval of such a description is a federal law, which is demonstrated by the experience of creating the federal territory "Sirius".

An important issue is the procedure for determining the territory of the federal territory. The press has already drawn attention to the fact that the creation of federal territories will inevitably require a reduction in the territory of the subjects of the Russian Federation [13, p.59], and even suggests that this may be a reduction in the sovereignty of the subjects of the Russian Federation [19, p. 110]. However, such an assessment is unnecessarily categorical. Of course, the creation of a federal territory will require a change in the territory of one or more subjects of the Russian Federation, but at all levels of government, where the prospects for the creation of federal territories in Russia are being discussed, it is emphasized that a necessary element of the procedure for the creation of a federal territory will be conciliation procedures with the subjects of the Russian Federation. As part of the prospects for the development of a federal law on federal territories, I would like to draw attention to the fact that the establishment of the borders of the federal territory will be an absolutely new procedure, unknown to the current legislation. In particular, the principle of changing the borders between the subjects of the Russian Federation only with their mutual consent, provided for in part 3 of Article 67 of the Constitution of the Russian Federation, does not apply to this procedure. Therefore, the legislator needs to carefully regulate such a procedure and include in it all the mechanisms necessary to take into account the interests of all interested parties.

Finally, I would like to draw attention to the physical and geographical characteristics of the territory of the federal territories. In the absence of a clear understanding of the goals of creating federal territories in this part, it is difficult to make forecasts. However, given the ideas voiced in the

press about the creation of separate federal territories, it can be assumed that federal territories can be both fairly extensive and extended territories bordering several subjects of the Russian Federation (the Arctic), and "point objects" (closed administrative-territorial entities). These characteristics will at least affect the procedure for creating federal territories. And taking into account the voiced division into populated and unpopulated, it can be assumed that unpopulated territories can be both sufficiently extended and compact. At the same time, the populated territories must clearly have a "point character" and cannot be equal in area to the subject of the Russian Federation. Moreover, since federal territories will be constructed outside the context of historical, cultural and national development – as artificially created units, it is quite possible to provide specific criteria for determining the territory of federal territories of various types in the federal law. For example, a significant characteristic for unpopulated federal territories may be the remoteness of the territory, the absence or difficulty of permanent communication with it, or geographical isolation (for example, island territories), etc.

3.3. Subjects of jurisdiction of the federal territory

Assessing this element of the status, it should be recognized that the federal territory, by definition, should not have it. As mentioned above, the Constitutional Court of the Russian Federation has already clearly defined its position on the issue that federal territories are not elements of a federal structure. This means that the division of subjects of competence and powers between the state authorities of the Russian Federation and the state authorities of the subjects of the Russian Federation as a principle of the federal structure provided for in Part 3 of Article 5 and Part 3 of Article 11 of the Constitution of the Russian Federation does not apply to them. In fact, a significant part of the provisions of Chapter 3 of the Constitution of the Russian Federation should also not apply to federal territories. And this uncertainty is so conceptual that it makes it impossible to apply the vast majority of legal

norms within the framework of the subjects of joint jurisdiction. Let us dwell on this point in more detail.

In a superficial assessment of the scale of the specifics of the implementation of the subjects of public jurisdiction in the federal territories, it may seem that uncertainty is created only in the part of solving the issues assigned to the jurisdiction of the subjects of the Russian Federation. However, this is not the case. In the federal territory, in a more or less ordinary mode, it is possible to imagine the implementation of only issues of the exclusive jurisdiction of the Russian Federation, and even then not all of them. So, it is quite possible to imagine the work of the police, the Investigative Committee of the Russian Federation, other law enforcement agencies and the system of execution of punishment. However, problems will already arise in the administration of justice (for example, due to the loss of magistrates as state authorities of the subject of the Russian Federation, qualification boards of judges of the subjects of the Russian Federation, etc.). The implementation of the subjects of joint jurisdiction will require a complete rethink. The entire current system of delineation of powers within the subjects of joint jurisdiction of the Russian Federation and its subjects is focused on the participation of three levels of public authority. The absence of a regional link makes it automatically impossible to exercise the powers of both federal state bodies and local self-government bodies.

In this regard, it is necessary, first of all, to pay attention to the implementation of the law-making powers of the subjects of the Russian Federation, especially the powers implemented through the adoption of laws. It seems that the federal territory should not carry out independent legislative regulation. And it is not only the absence of a legislative body, as will be discussed below, but also the fact that part 2 of Article 5 of the Constitution of the Russian Federation refers to the legislation of only the subjects of the Russian Federation, and Article 76 of the Constitution of the Russian Federation remained unchanged and delimits the rule-making competence only between the Russian Federation and its subjects. Thus, the implementation of the rule-making powers assigned to the state authorities of the federal territory can only be carried out through the adoption of by-laws.

This circumstance alone makes it virtually impossible to exercise the powers of federal and local authorities in matters of joint jurisdiction of the Russian Federation and its subjects (issues of local significance within the relevant sphere). As you know, the legislative competence of the regions in the subjects of joint jurisdiction has an excessively differentiated ("patchwork") character, but it is this characteristic that indicates that the absence of regional laws will prevent the implementation of a significant part of the powers of federal and local bodies, even if such bodies are created in the usual way.

As for the issues of exclusive jurisdiction of the subjects of the Russian Federation, while agreeing with their ephemerality and decorativeness, we can foresee some complications here. For example, despite the diversity of opinions in science, it is actually the exclusive responsibility of the subjects of the Russian Federation to determine the type and category of a locality, as well as to make a decision on its creation and abolition. In the absence of legislative regulation at the regional level, these issues will need to be resolved in a different order.

In relation to the populated federal territories, the situation is much more complicated. It is unlikely that it will be possible to completely abandon the existing division of subjects of competence and powers for the main part of the territory of Russia. Therefore, the delineation will need to be thought out based on the purposes for which such a territory will be created. Thus, it is obvious that the regime of ensuring the safe operation of nuclear industry facilities will require a completely different division of powers than the regime of priority economic development.

In any case, it is the question of the implementation of the subjects of state jurisdiction that constitutes the essential peculiarity of the federal territory as a "non-subject of the Russian Federation". However, the experience of the creation of the federal territory "Sirius" indicates that this issue has not been worked out at all and the federal law on this territory will have to go through multiple changes. We believe that the solution of such an important issue of public power

by trial and error is hardly successful.

3.4. Organization of state power in the Federal territory

The peculiarities of the organization of public power, as mentioned above, are one of the few constitutional characteristics of the federal territories. However, it is, in our opinion, the least significant. The choice of a particular management system is often arbitrary and is caused by a variety of (including personal) factors. Thus, the model of the organization of public authorities of the federal territory "Sirius" is clearly borrowed from the municipal level.

Within the framework of this article, we will focus only on those conceptual provisions that are the boundaries for the discretionary discretion of the federal legislator.

The defining constitutional principle for determining the system of state bodies of the federal territory is the principle of separation of powers provided for in Article 10 of the Constitution of the Russian Federation, which allows us to draw a number of conclusions.

First, in the absence of state authorities of the subjects of the Russian Federation, this means that the only legislative body for such a territory is the Federal Assembly of the Russian Federation (Article 94 of the Constitution of the Russian Federation). No other legislative bodies may be created for such a territory. It is more difficult with representative bodies. On the one hand, the Constitution of the Russian Federation does not prohibit the creation of representative, but not legislative, federal authorities, as demonstrated by the provisions of the Federal Law "On the Federal territory "Sirius". The first federal territory of the Russian Federation will have such a large and diverse representative body that in the future it may become a problem for the effective functioning of the executive bodies. On the other hand, the federal law does not answer the question of the nature of this body. It is difficult to imagine a representative body in the system of executive authorities, but the Council of the federal territory "Sirius" clearly does not belong to the legislative power of Russia. Probably, the legislator proceeded from the classification of it as other state bodies. However,

the question of the need for such a body in a situation where it does not have legislative competence, as well as the question of the nature of its acts, remains open.

Secondly, it is mandatory to have federal executive authorities (most likely specially created for such a territory, although it is possible to partially preserve the generally accepted system of federal executive bodies). So, in the federal territory "Sirius" it is directly provided for the creation of only an administration-an executive and administrative body. However, even to the question of the nature of this body as the highest executive body heading the system of other executive bodies, or as a single conglomerate of executive structures (by analogy with the administration of a municipal formation), the federal law does not give an answer.

Third, the issue of the judiciary can be resolved in different ways. For non-populated federal territories, where a minimum of economic activity and a specialized (primarily military) contingent are expected, it is optimal to create specialized courts with a special set of powers. In the case of populated federal territories, it is possible to predict the overall preservation of the generally accepted judicial system. In particular, it is advisable to preserve the system of justices of the peace by resolving the issue of their affiliation.

In relation to other state bodies, the issue may be resolved in different ways. Thus, the creation of election commissions in unpopulated federal territories will depend on how the issue of the implementation of the electoral right will be resolved. After all, if we postulate that citizens who are in this territory do not live on it permanently, this raises the question of their participation in the elections of deputies to the State Duma of the Federal Assembly under the majority system. However, the organization of voting for the election of deputies under the proportional system and for the election of the President of the Russian Federation will be necessary in any case. In populated federal territories, the system of election commissions will largely be determined by the presence or absence of elected bodies (officials) of the federal territory.

But the subject of the most numerous

discussions will undoubtedly be the question of the status of the highest official of the federal territory. Such a position, in our opinion, will be created under any organization of state power in the federal territory. It seems that there are conceptually 2 possible options here:

1) such a position is defined as a position of the federal state service and is replaced by appointment by the federal center (the President of the Russian Federation or the Government of the Russian Federation, possibly in agreement with the Federal Assembly of the Russian Federation);

2) such a position is defined as a state position of the Russian Federation, which makes it possible to give it an independent status and makes it possible to coordinate with the population in one or another version. It is unlikely that there will be direct elections, since this is not consistent with the goals of creating a federal territory, as a territory governed directly by the federation. Rather, the public will be given the opportunity to approve or disapprove of the candidate submitted by the federal center.

The first option is most suitable for unpopulated federal territories, the second-for populated ones. However, "hybrid" options are also possible.

It is noteworthy that the provisions of the Federal Law "On the Federal Territory of Sirius" do not even answer the question of the status of the head of the administration of the federal territory. Only the method of substitution is defined – appointment by a representative body (parts 2 and 3 of Article 14). However, the question of the nature of this position is justified only in the abstract indication of the possibility of creating public positions in the system of public authorities of the federal territory "Sirius" and positions of the federal state civil service in the public authorities of the federal territory "Sirius" (part 3 of Article 10).

3.5. Property and budget of the federal territory

Legal regulation of property and budget relations is aimed at creating and ensuring the economic basis of public legal education and ensuring its financial stability [22]. Despite the fact that the creation of federal territories does not give

rise to an independent public legal entity, there will certainly be a need to finance the implementation of the constitutional rights of citizens and provide for other public needs.

In this case, there are two possible solutions to this problem:

1) to recognize the federal territory for the purposes of budgetary and legal regulation as a quasi-public legal entity entitled to a separate budget, which will be federally owned and managed by the branch federal executive authorities;

2) financing the needs of the federal territories on the basis of estimates at the expense of the federal budget.

In the case of an unpopulated federal territory, the second option is preferable, and in the case of a populated one, the first option is preferable, since the presence of a separate budget makes it possible to have inter-budgetary relations with the local budgets of municipalities located within the borders of the federal territory.

As for other necessary property in the public sphere, taking into account the current civil legislation regarding the regulation of forms of ownership, in this case it is possible to use only property that is in federal ownership. The question of the presence or absence of municipal property should be resolved together with the question of the implementation of local self-government in the federal territories.

Unfortunately, the experience of creating the federal territory "Sirius" does not provide even approximate guidelines in terms of economic basis. At the moment, it is clear from the federal law only that this territory must have property and a budget (Article 43). However, it is not clear how a non-subject of federal relations can be a participant in civil turnover and a participant in budgetary relations.

3.6. The system of taxes and fees in the federal territory

The specifics of the establishment, introduction and collection of taxes and fees in the federal territory need careful theoretical understanding and legislative elaboration. The current system of taxes and fees reflects the

federal structure of the Russian Federation and includes federal, regional and local taxes and fees. Since regional and local taxes according to Article 12 of the Tax Code of the Russian Federation are established and put into effect by the Tax Code of the Russian Federation and the laws (normative legal acts) of the representative bodies of state power of the subject of the Russian Federation (local self-government), respectively, since we are talking about the absence of the subject of the Russian Federation and (in the case of unpopulated federal territories) the possible absence of municipalities, it is logical to conclude that, that only federal taxes and fees or federal and local taxes and fees will be collected in the federal territories.

At the same time, such a provision would violate the fundamental principles of taxation – the universality and equality of taxation, the unity of tax policy and the unity of the economic space. It is very difficult to even hypothetically assume that in the federal territories there will be no objects of taxation under regional and local taxes (land plots owned by individuals or organizations on the right of ownership, the right of perpetual use or the right of lifelong (inherited) ownership; real estate objects, vehicles owned by individuals). If there are such taxes, non-collection in the federal territories of land and transport taxes, taxes on the property of individuals and organizations will put taxpayers in an unequal position with taxpayers in other territories in Russia.

Compliance with the specified tax principles is possible only when all taxes and fees are collected on the entire territory of the Russian Federation, including federal territories. In this connection, the question arises: who will be entrusted with the authority to make decisions on taxes that are attributed to the powers of the legislative bodies of state power of the subjects of the Russian Federation and representative bodies of local self-government. We have already focused on the absence of subjects of reference as an element of the status of the federal territory. In this regard, the question of the ownership of powers in the field of taxation should be resolved not by a mechanical "transfer", but by a revision of the concept itself: can tax levels be differentiated in a situation where there is no differentiation of subjects of

competence?

It is appropriate to note here that following the principles of the unity of tax policy and the unity of the economic space implies the construction of a centralized system of taxes and fees and the centralization of tax powers [23, p. 47; 24, p. 250]. Attention is drawn to the fact that to date the powers of the subjects of the Russian Federation and municipalities in the field of taxation and fees are significantly limited by the federation. According to Article 12 of the Tax Code of the Russian Federation, they determine the following elements of taxation in the order and within the limits provided for by the Tax Code of the Russian Federation: tax rates, the procedure and terms of payment of taxes. Moreover, a reservation is made "if these elements of taxation are not established by the Tax Code of the Russian Federation". That is, the current version already establishes the possibility of consolidating powers in the field of regional taxes and fees at the federal level.

Also in the Tax Code of the Russian Federation there are rules that allow you to collect the designated taxes and in the absence of the relevant law of the subject of the Russian Federation or the decision of the municipality. Thus, paragraph 4 of Article 361 of the Tax Code of the Russian Federation stipulates that if the tax rates of transport tax are not determined by the laws of the subjects of the Russian Federation, taxation is carried out at the tax rates specified in paragraph 1 of this Article. According to paragraph 3 of Article 394 of the Tax Code of the Russian Federation, if the tax rates of land tax are not determined by the normative legal acts of the representative bodies of municipalities (laws of the federal cities of Moscow, St. Petersburg and Sevastopol), taxation is carried out at the tax rates specified in paragraph 1 of this Article.

We believe that such a method of regulation – the consolidation of powers to establish and impose taxes at the federal level and the definition of all elements of the designated taxes by the Tax Code of the Russian Federation-is also applicable to the establishment and introduction of taxes and fees currently classified as regional and local in relation to federal

territories.

When deciding on the issue of crediting these payments to the budget system of the Russian Federation, it is necessary to amend the budget legislation. At the same time, taking into account the chosen concept of budget activity in the federal territories, these payments will be credited either to the budget of the federal territory or to the federal budget.

3.7. Name and symbols of the federal territory

A name designed to identify the federal territory as an element of the territory of Russia is, of course, necessary. The variability for regulation is now not a question of its presence or absence, but the order of its assignment and change. In our opinion, this issue should be resolved in conjunction with the recognition (non-recognition) of federal territories as a geographical object. And the answer to it is far from clear.

On the one hand, all the elements that are directly part of the territory of Russia (primarily the subjects of the Russian Federation) are geographical objects. On the other hand, the existing procedure for naming and renaming geographical objects will not apply to federal territories, since the state authorities of the constituent entities of the Russian Federation are the participants in this procedure. Therefore, the value of recognizing federal territories as a geographical object is actually offset by the need to regulate a separate procedure for naming and renaming them. Nevertheless, it seems most appropriate to recognize federal territories as a geographical object (which will require amendments to the relevant federal law), since this will avoid the ambiguity that currently exists in relation to municipalities.

Unfortunately, when the federal territory "Sirius" was created, this issue was not resolved.

As for the assignment of the name, it is most appropriate to do this simultaneously with the creation of the federal territory in the federal law, which is demonstrated by the Federal Law "On the Federal territory "Sirius". And renaming should be carried out by making changes to the federal law. At the same time, it is advisable to use one or another form of identifying the opinion of the population.

The symbolism as an element of the registration of the status of the federal territory is clearly not required. The absence of symbols can become one of the distinctive features of the federal territory in comparison with the subjects of the Russian Federation. However, it is equally likely that such symbolism can be approved in one form or another. It is unlikely that federal territories will have a full set of symbols (coat of arms, flag, anthem). The most popular and recognizable is the coat of arms, so if you recognize the need to approve the symbols of the federal territory, most likely, they will have their own coat of arms. In relation to the symbols of the federal territory "Sirius", the legislator used reference regulation, including this issue in the subject of regulation of its charter.

3.8. Participation of the population of the federal territory in the management of state affairs

One of the most difficult issues of the organization of public power in the federal territories will be the question of the participation of its population in the management of state affairs.

Without having its own representation in the form of a legislative body and a senior official with its own status, and possibly elected local self-government bodies, the population of such a territory will have the opportunity to participate in the management of state affairs only directly and through representation in the State Duma of the Federal Assembly of the Russian Federation. Again, the forms of direct participation may not be fully implemented. As mentioned above, it is likely that in uninhabited federal territories, the population will not be able to participate in the elections of deputies to the State Duma of the Federal Assembly of the Russian Federation in single-member electoral districts. In any case, the degree of public participation in the management of state affairs will be significantly reduced. And if in the case of unpopulated federal territories, such a decrease seems quite reasonable due to the temporary nature of residence, then for a populated federal territory it can become a threat to their very existence.

The Federal Law "On the Federal Territory "Sirius" on this issue shows only a list of the intended forms of public participation (Article 11).

3.9. The purpose of the creation of the federal territory

In relation to the subject of the Russian Federation, such an element of status cannot exist, since a state-territorial entity is a natural form of organization of the population through public political power and a form of existence of society. Federal territories, on the other hand, are an exception to the general rule, which must be justified by a clear and understandable purpose. Therefore, it seems that the purpose of creation will be the defining element of the status of the federal territory.

Thus, in relation to unpopulated federal territories, the goal of creation can be generally formulated as the implementation of state power in territories where, due to climatic conditions, remoteness, isolation and sparsely populated areas, its implementation in the "normal mode" is impossible. In the case of populated federal territories, a clear statement of the purpose of creation should be the first question to be answered by the legislator when constructing the status. The goal of creating a populated federal territory, in our opinion, is the basis for their species differentiation.

In this regard, the provisions of the Federal Law "On the Federal Territory of Sirius "are extremely indicative. According to part 1 of its Article 2, the purpose of creating the first federal territory in Russia is to ensure comprehensive 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, and implement the priorities of scientific and technological development of the Russian Federation. In other words, we are talking about creating another kind of territory for innovative development.

At the moment, representatives of the authorities in one form or another have also announced the following goals that can become the

basis for the creation of populated federal territories: increased security requirements, protection and protection of the environment, and the implementation of space activities. Each of them requires careful study.

4. Conclusions

Summing up, we can offer the following conceptual vision of the federal territories in Russia.

Uninhabited federal territories – a part of the territory of the Russian Federation where, due to remoteness, difficult climatic conditions and (or) transport isolation, there is no permanent resident population, which is why the implementation of state power of the subjects of the Russian Federation and local self-government is completely impossible. Such territories can have both a fairly large area and a small one. Such territories should be financed from the federal budget.

Populated federal territories are relatively small parts of the territory of Russia with a permanent resident population, where the organization of public power has significant features based on a certain priority direction (increased requirements for security, protection and protection of the environment, creating conditions to increase investment attractiveness, space activities, etc.). It is difficult to clearly identify other significant characteristics at the moment.

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BIBLIOGRAPHIC DESCRIPTION

Vasilieva N.V., Praskova S.V., Pyatkovskaya Yu.V. Constitutional status of federal territories in Russia: theoretical foundations of legislative regulation.

Pravoprименение = Law Enforcement Review, 2021, vol. 5, no. 1, pp. 124–140. DOI: 10.24147/2542-1514.2021.5(1).124-140. (In Russ.).