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# Federal Territory: Constitutional and Legal Regulation Development

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## ABSTRACT

This article examines the legal status of federal territories as public law entities in the Russian Federation, which emerged as a result of the 2020 constitutional reform. This article discusses issues related to constitutional terminology, the constitutional-legal status, and legal regulation of federal territories, along with an analysis of the practice implementation of the constitutional provisions governing these territories. The specific features of existing federal territories in the Russian Federation and in foreign countries are also reviewed. The necessity for further development of the novelty introduced by the Constitution of the Russian Federation regarding federal territories is underscored, including a discussion on the unique tax regime applicable to these territories.

The article employs several scientific methods, including the comparative-legal method and the formal legal method, with additional methods such as analysis and synthesis also utilized.

Conclusion: Despite the short period between the establishment of the first federal territory and the development of its legal framework, several distinctive characteristics have also emerged in Russian legislation. An analysis of Russian constitutional law reveals key features in the exercise of public authority in this new public law entity. When comparing approaches to public authority in other countries, the models of India, Brazil, and Canada were chosen for comparison. It was found that Russia's form of public authority within federal territories is unique and does not fully align with any of the models seen in these foreign states.

However, Russian legislation currently lacks a comprehensive law that regulates federal territories as a whole. At present, the only federal territory established in the Russian Federation is the Sirius federal territory, and its legal status is governed by the federal law "On the Federal Territory 'Sirius'." This highlights the need for further development of a broader normative framework that regulates the status of the federal territory. Such a framework would not only solidify the legal status of the Sirius federal territory but also provide for future federal territories yet to be formed

**Keywords:** federal territory; federalism; local government; territories of the subjects; the Russian Federation; Constitution; constitution reform; public authority.

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# Федеральная территория: развитие конституционно-правового регулирования

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## АННОТАЦИЯ

В статье исследуется правовое положение публично-правового образования, а именно федеральной территории в Российской Федерации, появившейся в результате конституционной реформы 2020 г. Рассматриваются проблемы конституционной терминологии, конституционно-правовой статус и правовое регулирование федеральных территорий, анализируется практика реализации конституционных положений, закрепляющих конституционно-правовое регулирование федеральных территорий. Анализируются особенности существующих федеральных территорий в Российской Федерации и в иностранных государствах. Освещается значимость дальнейшего развития правового регулирования статуса федеральных территорий в Российской Федерации с помощью решения правовых коллизий, описываемых в данной статье. Рассматриваются особенности налогового режима, действующего в федеральной территории в Российской Федерации.

Использованы такие методы научного познания, как сравнительно-правовой и формально-юридический. Также были применены и иные методы (анализ, синтез).

Проведенное исследование показало, что в отечественном законодательстве, несмотря на небольшой промежуток времени, прошедший между появлением первой федеральной территории и развитием ее правового регулирования, можно отметить ряд сложившихся особенностей.

В результате анализа изученной информации подчеркивается присущая для российского конституционного права особенность осуществления публичной власти в новом публично-правовом образовании. При сравнительном анализе подходов осуществления публичной власти были выбраны модели следующих государств: Индия, Бразилия, Канада. Выводы отечественных специалистов в области конституционного законодательства позволяют отметить, что российская форма публичной власти на федеральных территориях не идентична ни одной из вышеупомянутых моделей, существующих в зарубежных государствах.

Однако в нынешнем подходе российского законодательства наблюдается отсутствие общего закона, в котором закрепляется правовое регулирование федеральных территорий. В связи с тем, что единственной федеральной территорией, созданной в Российской Федерации, является федеральная территория «Сириус», в качестве источника регулирования правового статуса федеральной территории стал федеральный закон «О федеральной территории «Сириус»». Исходя из чего, можно говорить о необходимости дальнейшего развития нормотворческой составляющей, регулирующей статус нового правового образования, а именно о создании национального правового источника, где будет закреплено правовое регулирование осуществления публичной власти не только на одной федеральной территории, но и на формируемых в дальнейшем.

**Ключевые слова:** федеральная территория; федерализм; местное самоуправление; территории субъектов; Российская Федерация; Конституция; конституционная реформа; публичная власть.

## Как цитировать

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As a result of the constitutional reforms of 2020, the Constitution of the Russian Federation, in accordance with Part 1 of Article 67, stipulated the status of a new public-legal entity, namely the federal territory. This amendment was meant to regulate the territorial structure of the state. Federal territories may thus be formed within the framework of federal law. One peculiarity of such territories is their existence as public-legal entities in comparison with other subjects of the Russian Federation.

It can already be seen how the legal regulation of this new public-legal entity is developing and what changes are taking place alongside it. Current gaps in the legislation in terms of the legal regulation of federal territories have not yet been fully identified, while the procedures for the exercise of public authority in federal territories are already undergoing changes in connection with the improvement of Russian legislation.

As noted above, the new organization of power is fixed in Part 1, Article 67. Initially, the legal procedure for the formation of federal territories was fixed in the Law on the Amendment to the Constitution of March 14, 2020, No. 1-FKZ, "On Improving the Regulation of Certain Issues of the Organization and Functioning of Public Authority." At first glance, the creation of federal territories seems possible in compliance with the requirements and regulations established in regulatory legal acts. However, such an assumption is premature. It can be assumed that this approach will be enshrined in the future, and that the organization of public authority in federal territories will be regulated by federal law [1, p. 21–25]. Currently, such an order fixed at the legislative level has not yet been developed.

The legal status of the Sirius Federal Territory is regulated by the current Federal Law No. 437-FZ, dated December 22, 2020, "On the Sirius Federal Territory" (hereafter referred to as Law No. 437-FZ).<sup>1</sup> This law establishes the legal regulation of the organization of public authority in the new federal legal entity, including the features inherent in the public legal status of the federal territory, as described below.

First, it is necessary to analyze the presentation and consolidation of the term "federal territory" in regulatory and legal sources. The Constitution of the Russian Federation, namely in Part 1 of Article 67, states:

federal territories may be established within the Russian Federation in accordance with federal law. The organization of public authority in federal territories is established by the specified federal law.<sup>2</sup>

Discussions have already arisen in the scientific community regarding the interpretation of the term "federal territory." This is facilitated by the fact that the definition of "federal territory" has not been fixed at the legislative level. The discussions on this issue can be seen as one of the problems of the legal regulation of the status of federal territories.

The second (but no less important) issue is legislative regulation and the normative fixing the status of federal territories. Law No. 437-FZ defines a federal territory as a public legal entity of national importance [2, pp. 51–58]. The law also details the organization and specifics of the exercise of public power in the Sirius Federal Territory. The Sirius Federal Territory operates through its own federal law and internal charter. The legal regulation of the organization of public authority in the Sirius Federal Territory is also undergoing considerable changes. The amendments instigating these changes entered into force on July 10, 2023, with Federal Law No. 287-FZ, "On Amendments to Certain Legislative Acts of the Russian Federation."<sup>3</sup>

The main ongoing changes relate to Chapter 4 of Law No. 437-FZ, namely, the organization of public authority in the Sirius Federal Territory. External financial control within the territory is carried out by the control and accounting body of the Sirius Federal Territory. Previously, this control was carried out in accordance with the legislation of the Russian Federation. It should be noted that the control and accounting body of the Sirius Federal Territory has become the main body in the system of the federal territory, along with public authorities, the election commission of the Sirius Federal Territory, and other bodies established in the federal territory as provided for in its charter.

An additional feature of the amendment to Law No. 437-FZ is the focus on compliance with Federal Law No. 273-FZ, dated December 25, 2008, "On Combating Corruption."<sup>4</sup> Law No. 437-FZ establishes the procedure for dismissal of representatives of public authorities of the federal territory, such as members of the Council of the Sirius Federal Territory, its Chairman, its Deputy Chairman, and the Head of the Administration.

An analysis of these amendments and the documentation of Draft Law No. 266491-8 suggests that the reason for the amendments was the purpose of complying with the modern budget legislation of the Russian Federation, as well as Federal Law No. 35-FZ, dated March 6, 2020,

<sup>1</sup> Federal Law No. 437-FZ, dated December 22, 2020 "On the Sirius Federal Territory" // ConsultantPlus Legal Reference System.

<sup>2</sup> The Constitution of the Russian Federation: New Edition, with Comments from the Constitutional Court of the Russian Federation. Moscow: Prospekt, 2020, p. 116.

<sup>3</sup> Federal Law No. 287-FZ, dated July 10, 2023, "On Amendments to Certain Legislative Acts of the Russian Federation" // ConsultantPlus Legal Reference System.

<sup>4</sup> Federal Law No. 273-FZ of December 25, 2008 (as amended on October 07, 2023) "On Combating Corruption" // ConsultantPlus Legal Reference System.

"On Countering Terrorism."<sup>5</sup> In addition, the amendments are aimed at expanding control over the observance of the procedures for the exercise of the powers of the public authorities of the Sirius Federal Territory.

It is necessary to describe in more detail the system of public authorities of the Sirius Federal Territory, the importance of which has been increasing every year since the entry into force of Law No. 437-FZ. This system of public authorities consists of: public authorities (including the Council of the Federal Territory), the control and accounting body, and the administration.

The Council of the Federal Territory (hereinafter referred to as the Council) consists of 17 members. Nine members are elected by the population, three are appointed by a Decree of the President of the Russian Federation, three are appointed by order of the Government of the Russian Federation, and one is appointed by order of the Krasnodar Krai (from which the Sirius Federal Territory was allocated). The Council of the Federal Territory performs the function of a key governing body. It also appoints the Head of the Administration of the Federal Territory, who is a member of the Council.

The duties of the abovementioned public authorities also include the implementation of local self-government. These public authorities interact directly with the federal public authorities of the Russian Federation. There are also municipal and regional levels of government connected to both. However, when interacting, the public authorities of the federal territory can bypass these municipal and regional levels. This was implemented for the purpose of facilitating direct interaction with the President of the Russian Federation.<sup>6</sup> Of no small importance is the fact that the public authorities of the Krasnodar Krai have no significant influence on public power in the Sirius Federal Territory except for the representative in the Council.

The above description allows us to note a feature peculiar to federal territories, namely their autonomy. This autonomy is assigned to a federal territory when it is separated from the main body of the Russian Federation.

There are discussions in the scientific community about the process of formation of new territorial units and the choice of the method of separation of the federal territory from the Federation. This approach is different from the formation of federal territories in other countries, where the type of government in federal territories acquires the characteristics of a state or province. In the process

of historical transformation, states and provinces (as well as other areas under federal administration) became part of a federal subject or united to form new independent territories where the system of public authority was controlled or autonomous.

There have also been cases in world history when a subject broke into separate federal territories. In 2019, the state of Jammu and Kashmir ceased to exist in the Indian Union and was divided into two union territories. The Constitution of the Indian Union provides for a centralized reorganization of the federal structure, and there is an independent mechanism for the exclusion of a territory. The Constitution of the Russian Federation does not yet provide for such a mechanism. Its nonapplication is based on the current experience of separating a federal territory from a subject and is quite successful. Moreover, the Indian and Russian models of forming federal territories are not identical, and the mechanism of exclusion of the territory violates the constitutional foundations of the Russian Federation, especially the termination of the existence of a subject that would be divided into several federal territories.

Current Russian legislation does not regulate the creation or abolition of potential federal territories that are allocated from the subjects of the Russian Federation. This then becomes the basis for new discussions. In the constitutional and legal environment, there are various positions regarding Law No. 437-FZ. One of the essential issues in these debates is the organization and exercise of public power, namely the role of the population. In Law No. 437-FZ, in the Charter of the Sirius Federal Territory, there is no legal regulation of the issue of the election participation of the local population of the subject from which the federal territory was formed, the Krasnodar Krai. Furthermore, this issue has not been raised in other normative legal acts of the Russian Federation. This gap has caused the subsequent appearance of restrictions on the rights of the local population of the Sirius Federal Territory and other federal territories formed in the future. Additionally, it is worth noting that in the first drafts of Law No. 437-FZ, the state positions of the federal territory and the state civil service of the federal territory were included. However, they were excluded from subsequent editions of the bill [3, pp. 28–33].

According to the Constitution of the Russian Federation, there are three options for ownership: private, state, and municipal. Since the federal territory owns its own property, in this case ownership can be attributed to the state. However, this also creates a dichotomy in the law. If property is classified as government property, it is either federal or state property. In this case, the owner of the property is actually the Russian Federation or a subject of the Russian Federation, and not the federal territory. It therefore follows that the construction of a federal territory, from

<sup>5</sup> Passport of the draft Federal Law No. 266491-8, "On Amendments to Certain Legislative Acts of the Russian Federation (in Terms of Clarifying the Composition and Specifics of the Powers of Public Authorities of the Sirius Federal Territory)" // ConsultantPlus Legal Reference System.

<sup>6</sup> Sochi District of Columbia: Why the Sirius Center Will Become a Federal Territory / A. Pushkarskaya, S. Kozlovsky, O. Shamina, T. Sazonov // ConsultantPlus legal reference system.

the point of view of the owner, requires the creation and securing of an independent category of state property at the legislative level.

Additionally, it is necessary to describe the changes taking place in tax legislation that impact the regulation of legislation in the Sirius Federal Territory. Thus, in accordance with the Tax Code of the Russian Federation until January 1, 2022, until the entry into force of Federal Law No. 199-FZ, dated June 11, 2021, the normative legal acts of the municipality (the Sochi City District of the Krasnodar Krai) on taxes and fees were applied in the federal territory in accordance with the Tax Code of the Russian Federation.<sup>7</sup> Since the entry into force of the aforementioned federal law in the federal territory, the process of commencement or termination of regional taxes and fees has undergone changes. This is primarily due to the fact that regional taxes are introduced and terminated in the Sirius Federal Territory in accordance with the Tax Code. In addition, local taxes and fees have also been established by the regulations of the representative body of the Sirius Federal Territory on local taxes and fees. The tax benefits provided in terms of local taxes are thus established and abolished both by the Tax Code of the Russian Federation and by the normative acts of the representative body of the Sirius Federal Territory on local taxes and fees.

Law-making in the field of tax legislation in the Sirius Federal Territory continues to undergo changes. Thus, Article 372.1 of the Tax Code of the Russian Federation was amended in accordance with Federal Law No. 200-FZ, dated May 29, 2023 "On Amendments to Articles 217 and 372.1 of Part Two of the Tax Code of the Russian Federation."<sup>8</sup> Article 372.1 of the Tax Code defines the specifics of establishing taxes and taxation in the Sirius Federal Territory. Since May 29, 2023, real estate objects owned by educational and sports organizations in the Sirius Federal Territory have been exempt from paying taxes. The innovation applies to facilities commissioned on January 1, 2022, and those with an area of more than 15,000 square meters. This norm, in force since mid-2023 and extending its effects to the calculation and payment of corporate property taxes starting from the tax period of 2023, allows us to note the desires of the population engaged in commercial and noncommercial activities that expand the territorial boundaries [4, p. 5]. It can be

assumed that such preferential taxation in the future will apply not only to the Sirius Federal Territory, but also to other federal territories. However, Article 372.1 mentions only the Sirius Federal Territory, which demonstrates the diversity of the application of tax benefits to federal territories.

Analyzing the foreign experience of legal regulation of federal territories (or in public legal entities similar in legal regulation to the Russian Federation's federal territories), two main groups can be distinguished: metropolitan territories and federal territories. The first category includes states such as India, Canada, and Malaysia. The second category includes such states as the United States of America, the Federal Republic of Brazil, and Australia. When distinguishing between the two categories of federal territories, the Constitution of India is a suitable example. The management of nonmetropolitan federal territories is conducted by officials appointed specifically to those federal territories. In these territories, management is conducted from the federal center. Capital federal territories, meanwhile, have greater autonomy, such as Delhi. Delhi represents both elected legislative authorities and independently appointed executive authorities. These bodies are controlled from the federal center.

Capital territories can also be divided into districts independent of the federal center and districts controlled by the federal center. Brazil's federal district of Brasilia is independent from the federal center. In the Brazilian Constitution, the federal district is a full-fledged territorial entity whose public authorities are equal in status and endowed with the same rights and responsibilities as the public authorities of other Brazilian states. However, the structure itself has peculiarities characteristic of this territorial institution. For example, citizens living on in Brasilia are limited in their rights of local self-government. Issues related to local self-government are under the jurisdiction of the authorities of the federal district [5, p. 164]. This type of federal territory is thus comparable with the Russian model. At the same time, the Russian model differs in its formation of federal territories.

There can be a variety of goals in creating nonmetropolitan federal territories. In Canada, such territories are formed while taking into account the ethnic component of the population. In Malaysia, economic and administrative centers are endowed with the status of federal territories; they act as municipalities separate from regional authorities, and exist at a local level [6, p. 295]. These examples make it possible to highlight the differences between federal territories in the Russian Federation and other countries. The first difference is the purpose of creating federal territories. Malaysia is the closest comparison in terms of domestic law, but there is still a clear discrepancy on a territorial basis.

<sup>7</sup> Federal Law No. 199-FZ dated June 11, 2021 "On Amendments to Parts One and Two of the Tax Code of the Russian Federation and Articles 1 and 2 of the Federal Law 'On Conducting an Experiment to Establish a Special Tax Regime 'Tax on Professional Income' in connection with the adoption of the Federal Law 'On the Sirius Federal Territory'" // ConsultantPlus legal reference system.

<sup>8</sup> Federal Law No. 200-FZ, dated May 29, 2023, "On Amendments to Articles 217 and 372.1 of Part Two of the Tax Code of the Russian Federation" // ConsultantPlus legal reference system.



While federal territories in the Russian Federation are small territories of special importance, in Malaysia the creation of federal territories takes place at the level of an economic or administrative center: that is, a city [7, p. 498–499]. The second distinctive aspect is in the organization of public authority. In Canada and India, public authority is exercised by regional bodies or bodies with the status of local authorities such as, for example, in Malaysia. In the Russian Federation, public authority in a federal territory is a new type of federal government that is still being developed. The related issue of the exercise of public authority in federal territories also applies to the powers of those authorities. In other countries, the scope of powers is formed from existing norms, by reducing the powers of bodies, or by transferring such powers, but not by creating new types of public law bodies.

When comparing the models for the creation and implementation of public powers in federal territories in the Russian Federation and other countries, it is significant that in this model of creation and legal regulation, federal territories in the Russian Federation are a fairly new legal institution that have only some similarities with the federal territories and districts of other nations. At the same time, it is possible to implement suitable elements from foreign models for the regulation of federal territories and use them in the Russian legal system, such as the appointment

of representatives of executive and legislative authorities by the President of the Russian Federation.

Thus, when studying the legal status of federal territories, it is noteworthy that regulation is carried out on the basis of a separate federal law. When choosing this method of legal regulation, the legislator accounts for the peculiarities of the existing federal territory. However, it is also worth considering other options for the legal regulation of a public-law entity. For example, the legal codification of legislation on federal territories seems promising. With the help of such codification, legislators will be able to secure the status of federal territories in the general law. This may involve provisions regulating such issues as the purposes of the creation of federal territories, the procedure for the creation of federal territories, the procedure and order of interaction between the public authorities of the constituent entities of the Russian Federation and the public authorities of federal territories, and the procedure for accounting for the opinion of the constituent entity of the Russian Federation and the residents of the municipality. The federal law “On the Sirius Federal Territory” can thus become a foundation on which a general federal law could be created regulating the abovementioned issues not only for one new public legal entity, but for others that may be created within the Russian Federation.

## REFERENCES

1. Peshin IL. Territorial organization of public government within the borders of federal territories. *Constitutional and Municipal Law*. 2021;(7):35–40. EDN: PSRBY doi: 10.18572/1812-3767-2021-7-35-40
2. Karimov BR. Federal Territory in the Russian Federation: the first experience of establishment and problems of constitutional law regulation. *Constitutional and Municipal Law*. 2022;(3):51–58. EDN: HBMMPJ doi: 10.18572/1812-3767-2022-3-51-58
3. Lexin IV. Federal territories in Russia: prospects and problems of the implementation of constitutional novelties. *Constitutional and Municipal Law*. 2021;(8):28–33. EDN: RJXOSQ doi: 10.18572/1812-3767-2021-8-28-33.
4. Fokina DV. Changes in Articles 217 and 372.1 of the Tax Code of the Russian Federation: tax exemption. *Educational Advisor*. 2023;(6):3 (In Russ.)
5. Dolinger J, Barroso LR. Federalism and Legal Unification in Brazil In: Halberstam D., Reinmann M., editors. *Federalism and legal unification: a comparative empirical investigation of twenty systems*. Springer Dordrecht; 2014. P. 153–167.
6. Leng Ang H, Whiting A. Federalism and Legal Unification in Malaysia In: Halberstam D., Reinmann M., editors. *Federalism and legal unification: a comparative empirical investigation of twenty systems*. Springer Dordrecht, 2014. P. 295–337.
7. Ostwald K. Federalism without decentralization in Malaysia. *Journal of Southwest Asian Economies*. 2017;34(3):488–506.

## СПИСОК ЛИТЕРАТУРЫ

1. Пешин И.Л. Территориальная организация органов публичной власти в границах федеральных территорий // Конституционное и муниципальное право. 2021. № 7. С. 35–40. EDN: PSRGBY doi: 10.18572/1812-3767-2021-7-35-40
2. Каримов Б.Р. Федеральные территории в Российской Федерации: первый опыт создания и проблемы конституционно-правового регулирования // Конституционное и муниципальное право. 2022. № 3. С. 51–58. EDN: HBMMPJ doi: 10.18572/1812-3767-2022-3-51-58
3. Лексин И.В. Федеральные территории в России: перспективы и проблемы реализации конституционных нововведений // Конституционное и муниципальное право. 2021. № 8. С. 28–33. EDN: RJXOSQ doi: 10.18572/1812-3767-2021-8-28-33.
4. Фокина Д.В. Изменения в статьи 217 и 372.1 НК РФ: освоение от налогов // Советник в сфере образования. 2023. № 6. С. 3.
5. Dolinger J., Barroso L.R. Federalism and legal unification in Brazil. In: Halberstam D., Reinmann M., editors. Federalism and legal unification: a comparative empirical investigation of twenty systems. Springer Dordrecht, 2014. P. 153–167.
6. Leng Ang H., Whiting A. Federalism and legal unification in Malaysia. In: Halberstam D., Reinmann M., editors. Federalism and legal unification: a comparative empirical investigation of twenty systems. Springer Dordrecht, 2014. P. 295–337.
7. Ostwald K. Federalism without decentralization: power consolidation in Malaysia // Journal of Southwest Asian Economies. 2017. Vol. 34, N 3. P. 488–506.

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