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FIRST FEDERAL TERRITORY IN RUSSIA: FEATURES OF PUBLIC AUTHORITY ORGANIZATION

PRIMEIRO TERRITÓRIO FEDERAL NA RÚSSIA: CARACTERÍSTICAS DA ORGANIZAÇÃO DA AUTORIDADE PÚBLICA

EKATERINA BOCHKAREVA

The Russian State University of Justice the North Caucasian branch of the Federal State Budget-Funded Educational Institution of Higher Education – Russia. Orcid id: https://orcid.org/0000-0002-0579-4423 E-mail: fianansyst11@gmail.com

PETR KURDYUK

Kuban State Agrarian University named after I.T. Trubilin – Russia. Orcid id: https://orcid.org/0000-0001-9455-1070 E-mail: kurdyuk@rambler.ru

ARINA CHUEVA

The Russian State University of Justice the North Caucasian branch of the Federal State Budget-Funded Educational Institution of Higher Education – Russia. Orcid id: https://orcid.org/0000-0003-1664-265X E-mail: arina.chuieva.81@mail.ru

ELENA VORONENKO

The Russian State University of Justice the North Caucasian branch of the Federal State Budget-Funded Educational Institution of Higher Education – Russia. Orcid id: https://orcid.org/0000-0002-7317-4752 E-mail: elena.voronenko23@yandex.ru

ABSTRACT

The study aims to systematize the sources of legal regulation of the public authority system in the Sirius federal territory and identify the features of its bodies. The authors use general and special scientific methods of technical-legal analysis. The article presents the results of the analysis of theoretical approaches to Sirius' legal status. The authors consider the legal regulation of public authorities in the federal territory. The study shows that Sirius has a unique legal status not equal to other federal subjects or municipal entities in Russia. This uniqueness is reflected in the legal standing of its public authorities classified as the bodies of public authority in Russian law. The study identifies two main types of bodies: the representative body (the Council) and the executive-administrative body (the Administration), along with other bodies, such as the Urban Planning Council and the Territorial Electoral Commission. The Sirius federal territory marks a significant transformation of Russia's territorial organization. It functions under a unique legal framework directly subordinated to the federal government, without being part of any constituent or municipal entity.

Keywords: Sirius federal territory; Public authority; System of public authorities; Bodies of the federal territory; Legal regulation.



RESUMO

O estudo tem como objetivo sistematizar as fontes de regulamentação legal do sistema de autoridade pública no território federal do Sirius e identificar as características de seus órgãos. Os autores utilizam métodos científicos gerais e especiais de análise técnico-jurídica. O artigo apresenta os resultados da análise das abordagens teóricas do status legal do Sirius. Os autores consideram a regulamentação legal das autoridades públicas no território federal. O estudo mostra que Sirius tem um status legal único, diferente de outros assuntos federais ou entidades municipais na Rússia. Essa singularidade se reflete na posição jurídica de suas autoridades públicas classificadas como órgãos de autoridade pública na legislação russa. O estudo identifica dois tipos principais de órgãos: o órgão representativo (o Conselho) e o órgão executivo-administrativo (a Administração), juntamente com outros órgãos, como o Conselho de Planejamento Urbano e a Comissão Eleitoral Territorial. O território federal de Sirius marca uma transformação significativa da organização territorial da Rússia. Ele funciona sob uma estrutura jurídica única, diretamente subordinada ao governo federal, sem fazer parte de nenhuma entidade constituinte ou municipal.

Palavras-chave: Território federal de Sirius; Autoridade pública; Sistema de autoridades públicas; Órgãos do território federal; Regulamentação legal.

1 INTRODUCTION

The establishment of the Sirius federal territory is one of the most significant transformations of the Russian territorial structure in the 21st century. The amendments made to the Constitution of the Russian Federation from the moment of its adoption in 1993 to 2020 affected the quantitative but not the qualitative composition of the state.

Not being a constituent entity or a municipality, Sirius has a special legal status. The study of its features and modeling of its development have become the subject of active discussions in the Russian legal science. However, scholars have not yet developed unified approaches to the prerequisites for the creation and development of such territorial autonomy.

Having no such entities, the Russian Federation is building a new public authority system in Sirius. Its elements are the bodies of the federal territory. They are independent types, whose status differs from that of public authorities and local self-government bodies. Many questions arise regarding the vesting of federal, regional, and municipal powers in the bodies of the federal territory, the demarcation from the activities of the bodies of the Krasnodar Territory and the city of Sochi, and financial support for their functioning.

Thus, the study of legal regulation of public authorities in Sirius has great theoretical and practical significance.



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The research objective is, first, to systematize the sources of legal regulation of public authorities in Sirius and, second, to analyze the system of these bodies.

To this end, it is necessary to consider scientific approaches to the Sirius federal territory as a public legal entity and analyze legal acts establishing the status of its bodies.

2 MATERIALS AND METHODS

The main data set for analysis included the Constitution of the Russian Federation, Federal Law No. 437-FZ of December 22, 2020 "On the Sirius Federal Territory", the Charter, decisions of the Council of the Sirius federal territory regarding public authorities, and scientific literature on the topic of the study.

The main research methods were general (analysis, synthesis, generalization, and analogy) and special (technical and legal analysis) scientific methods. The following stages were identified in the course of the study: 1) we reviewed scientific studies on the legal identification of the Sirius federal territory and the problems of organizing public authority; 2) we analyzed the legal acts that enshrine the system and principles of activities of Sirius public authorities; 3) we considered the organization of Sirius public authority.

3 RESULTS AND DISCUSSION

3.1 Legal nature of the Sirius federal territory

The emergence of the Sirius federal territory determines scientific developments (albeit not always at the monographic level) by Russian lawyers on various aspects. Much attention is paid to establishing Sirius' legal nature and status, characterizing it as a special public legal entity. The most active participants in the discussion are constitutional scholars who consider the new territorial entity in the context of constitutional reforms (Aristov & Shchepetilnikov, 2023; Kozhevnikov & Korsun, 2023). Authors are also interested in defining the concept of federal territory (Abazalova, 2022; Maiboroda, 2021) and its constitutional and legal status (Vasilieva et al., 2021; Vinogradova, 2022), substantiating the role of the new territory in the system of Russian federalism (Andrichenko, 2022; Dzidzoev, 2020; Praskova, 2022), etc.

An important area of discussion is the form and sufficiency of legal regulation of federal territories.



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Some authors believe that a model (general, unified) law on federal territories is needed (Dzidzoev, 2021; Karimov, 2022; Starikov, 2023). According to others, "point legal regulation seems more effective since each potential federal territory has its characteristics that must be considered when creating a bill" (Kopylova, 2021, p. 1608).

Legal scholars focus on the essence and issues of organizing power in Sirius (Kolesnikov, 2021; Kovtun et al., 2021), the system of public authorities (Starikov, 2023), the delimitation and relationship of the spheres of interests of federal territories and other public territorial entities – the Krasnodar Territory and the city of Sochi (Naiderov, 2021).

Branch legal sciences are concerned with Sirius' civil-legal (Nikitina & Kalenov, 2022), administrative-legal, municipal-legal (Peshin, 2022), and financial-legal characteristics (Emelyanov, 2022; Pichkanin, 2023). The latter are considered in publications on budgetary and tax issues. According to Yu.V. Ledneva (2023), "the budgetary component of the financial-legal status of the Sirius federal territory is not reflected in the main act of budgetary legislation, i.e., the Budget Code of the Russian Federation" (p. 79). The budget of the federal territory is not included in the budgetary system of Russia. Its powers and public authorities, as well as the budget process and financial (budgetary) control, are neglected in the Budget Code of the Russian Federation (Ledneva, 2023).

At the stage of establishing federal territories, the Constitutional Court of Russia determined that "the Regulation on the possibility of creating federal territories does not imply giving them a status equal to the status of constituent entities of the Russian Federation" (Constitutional Court of the Russian Federation, 2020). However, at the time of updating the financial legislation (namely, Article 8 of the Budget Code of the Russian Federation), the legal statuses of Sirius and constituent entities of the Russian Federation were equalized in the budget sphere (State Duma of the Federal Assembly of the Russian Federation, 2021a). Thus, the budget law deviated from the decision of the Constitutional Court of the Russian Federation, according to which the status of a federal territory \neq the status of a constituent entity of Russia.

Sirius is the first federal territory in Russia with direct federal subordination. It does not belong territorially to any constituent entity.

The distinctive features of this federal territory include:

1) Federal territories do not have and cannot have a status equal to the status of a constituent entity. They are in direct federal subordination, i.e., they are not part of any constituent entity and are not subject to the laws and other acts of the public authorities of constituent entities;



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- 2) They are independent territorial units that are part of Russia along with its constituent entities, internal waters, territorial sea, and airspace;
- 3) Citizens permanently residing in federal territories are recognized as residents for the purposes of providing public services and participating in political life;
- 4) Their creation provides for conciliation procedures with constituent entities which transfer part of their territories under direct federal control;
- 5) Since federal territories are not part of the federal structure, they do not have their jurisdiction, i.e., there is no delineation between jurisdiction and powers in the federal territory, and all issues that require the intervention of public authorities must be under the jurisdiction of Russia;
- 6) Legislative power in federal territories is exercised exclusively by the Federal Assembly of the Russian Federation;
 - 7) Federal territories must have their own budget and property;
- 8) Powers to establish taxes in federal territories which, according to the current tax legislation, are within the jurisdiction of the legislative bodies of constituent entities and local self-government bodies, must be assigned to Russian public authorities;
- 9) Residents of federal territories form representative bodies and/or participate in resolving local issues;
- 10) The populations of federal territories must be guaranteed the right to manage state affairs.

The features of Sirius' status are manifested in the legal status of its bodies defined through a new category of public authorities. On the one hand, these bodies exercise the powers of municipal bodies (the urban district). On the other hand, they exercise the powers transferred to them by the constituent entity (the Krasnodar Territory). They are neither local self-government bodies nor public authorities. There is every reason to support those authors who claim that "the public authorities of the Sirius federal territory represent an independent type of public authorities, combining the features of state bodies and local self-government bodies" (Dzidzoev, 2021, p. 15).

3.2 Legal regulation of public authorities in the Sirius federal territory

The sources of legal regulation of public authorities in the Sirius federal territory can be represented by four main blocks of legal acts grouped depending on the level of their adoption.





The first block is the Constitution of the Russian Federation. Its allocation into an independent block is due to the fact that it has the highest legal authority and defines the foundations of the state structure. Article 67 of the Constitution of the Russian Federation states that "according to federal law, federal territories may be created in the territory of the Russian Federation. The organization of public authority in federal territories is established by the above-mentioned federal law" (Konstitutsiya Rossiiskoi Federatsii, 1993).

The second block includes *federal legal acts*: laws and by-laws. This includes the Federal Law of December 22, 2020 No. 437-FZ "On the Sirius Federal Territory" (State Duma of the Federal Assembly of the Russian Federation, 2020) (hereinafter referred to as the Federal Law No. 437-FZ).

The obligation to adopt this law was enshrined in another law almost a year later. We are referring to the Federal Law of December 21, 2021 No. 414-FZ "On the General Principles of Organizing Public Authority in the Constituent Entities of the Russian Federation" (State Duma of the Federal Assembly of the Russian Federation, 2021b). Under it, "public authority in the federal territory is established by federal law on the relevant federal territory" (Clause 10, Article 1).

In addition to laws, there are the following decrees of the President of the Russian Federation: Decree of August 4, 2021 No. 448 "On the remuneration of persons holding certain state positions of the Russian Federation in the public authorities of the Sirius federal territory, the control and accounts chamber of the Sirius federal territory, and the territorial election commission of the Sirius federal territory" (President of the Russian Federation, 2021a) and Decree of August 4, 2021 No. 450 "On establishing the maximum staffing level of the Administration of the Sirius federal territory and the wage fund of its employees" (President of the Russian Federation, 2021b). These decrees concern personnel issues and the powers of the head of state to manage territories.

Personnel powers are also implemented in the Decree of the President of the Russian Federation of September 30, 2021 No. 555 "On the members of the Council of the Sirius federal territory" (President of the Russian Federation, 2021c) and Resolution of the Government of the Russian Federation of September 30, 2021 No. 2745-r "On the appointment of members of the Council of the Sirius federal territory (Government of the Russian Federation, 2021), which specify the composition of the Council in accordance with Article 12 of the Federal Law No. 437-FZ.

Article 10 of the Federal Law No. 437-FZ lists Sirius public authorities, including the representative body (the Council of the federal territory headed by the Chairperson), the



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executive and administrative body (the Administration headed by the Head), and other bodies to be created.

The third block consists of the legal acts of the Krasnodar Territory. In conformity with Clause 2 of Article 4 of the Federal Law No. 437-FZ, they are valid "only for the powers of public authorities of the constituent entities of the Russian Federation exercised in the Sirius federal territory by public authorities of the Krasnodar Territory" and considering the provisions established by the Federal Law No. 437-FZ. This includes the Law of the Krasnodar Territory of April 23, 2013 No. 2697-KZ "On free legal aid in the Krasnodar Territory" (Legislative Assembly of the Krasnodar Territory, 2013) supplemented by Article 7 (1) "Exercise of the powers of public authorities of the Sirius federal territory" at the end of December 2021.

The fourth block includes Sirius' legal acts: the Charter (Council of the Sirius federal territory, 2021a) and decisions of the Council of the Sirius federal territory, for example, Decision of January 28, 2022 No. 1-8/43, which approved the Regulation on the Administration of the Sirius federal territory (Council of the Sirius federal territory, 2022).

The Charter establishes the system of public authorities, including the Council and the Administration. Let us mention the Head of Administration who is appointed by the Council of the Sirius federal territory for five years and is its member. This structure of public authorities is unique for Russia: the official heading the executive (supreme) body of the public legal entity is not a member of the legislative (elected representative) body at the federal, regional, or local self-government level.

Chapter 6 of the Charter "Other Bodies of the Sirius Federal Territory" lists the Urban Development Council, the Commissioner for Local Self-Government, the Territorial Electoral Commission, and the Chamber of Control and Accounts of the Sirius federal territory. The latter is defined as a permanent body of external state and municipal financial control of the federal territory. These bodies have independence from the Council and the Administration, which allows them to act as intermediaries between public authorities and society.

We can talk about two systems of bodies in Sirius, one of which is characterized as a system of public authorities, and the other is not.

This dualism is not new for Russia and reflects the concept of organizing the system of public authorities which does not include the Central Electoral Commission, the Chamber of Accounts of the Russian Federation, and various ombudsmen at the federal level.

For regulation, we need to mention the agreements on the transfer of powers concluded between the Administration of the Sirius federal territory and the sectoral





executive bodies of the Krasnodar Territory. From January 1, 2022 to December 31, 2022, the Ministry of Health of the Krasnodar Territory (acting as the authorized body under the agreement) was granted the powers to provide primary health care and medical care to the population of the federal territory, including specialized, high-tech, palliative, medical examinations and surveys, paying insurance premiums for compulsory medical insurance of the non-working population, etc. The second party to the agreement (the Administration of the Sirius federal territory) should exercise "control over the implementation of the transferred powers and the use of financial resources provided for these purposes, including by conducting inspections within the framework of this agreement" (Soglashenie administratsii federalnoi territorii Sirius, 2021).

These legal acts can be called *laws of general application*, i.e., they focus on regulating the organization and functioning of the entire system of public authorities and its elements.

In relation to individual spheres of life, these blocks (except for the first one) are supplemented by legal acts regulating sectoral legal relations and serving as *special acts* opposed to laws of general application. They determine by whom and how powers are exercised in a public legal entity.

For example, there is the Decision of the Council of the Sirius federal territory of November 19, 2021 No. 1-3/20 "On approval of the Regulation on the Committee on Taxes, Budget, and Economic Issues of the Council of the Sirius federal territory" which determines tasks and powers of the relevant committee (Council of the Sirius federal territory, 2021b).

4 CONCLUSIONS

The legal determinant of the system of public authorities in the Sirius federal territory is the Constitution of the Russian Federation updated in 2020.

Sirius was established three years ago, but discussions regarding its legal status continue and are unlikely to decrease in the near future. In the absence of federal law on the general principles of organization and activities of public authorities of federal territories and the status of these public legal entities, discussions will intensify each time new federal territories are created.

The Sirius system includes two types of bodies. The first type is its *public authorities*, including the representative body (the Council of the federal territory) headed by the Chairperson and the executive and administrative body (the Administration) headed by the Head. The second type is *other bodies of the federal territory*, including the Urban



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Development Council, the Commissioner for Local Self-Government, the Territorial Electoral Commission, and the Chamber of Control and Accounts of the Sirius federal territory.

This study shows that the establishment of rights precedes the formation of fundamental scientific conclusions in the organization of public authorities as a new legal phenomenon. This requires scientific understanding and further conceptual development.

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