International Journal of Economics and Business Administration
Volume VII, Special Issue 1, 2019

pp. 209-219

The Process of Regionalization of the State-territorial Structure in Modern European Countries: Constitutional and Legal Forms

Submitted 22/01/19, 1st revision 13/03/19, 2nd revision 20/04/19, accepted 05/06/19

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Abstract:

Purpose: *The paper attempts to identify the constitutional and legal forms of the regionalization process on the example of individual European countries.*
Design / Methodology / Approach: *The authors put forward a hypothesis according to which each type of regionalization of the state-territorial structure ends with the adoption of the relevant normative legal act of constitutional significance.*
Findings: *As a result of the study, the authors concluded that each type of regionalization process is accompanied by the adoption of an appropriate regulatory legal act. Given the fact that regionalization is inextricably linked with the state structure, it as an internal process of changing the constitutional and legal status of territorial units.*
Practical implications: *Authors' development could be applied to improve the legal framework of Russia and European countries.*
Originality/Value: *The contribution of the article is the authors' comprehensive approach in studying the regionalization concept, applying the historical, legislative and territorial background.*

Keywords: *State-territorial structure, regionalization process, legal form, autonomy.*

JEL Code*: K10, P48, F59.*

Paper Type: *Research article in Special Issue dedicated to Russian Economy.*

Section 5: *Law, Constitutional, Social.*

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1. Introduction

The internal process of regionalization, which is presented as a trend in the development of the form of state-territorial structure of modern European countries, is aimed at qualitative changes in the form of state-territorial structure: the transformation of the form as a whole (the transition from a unitary state to a Federal or regionalist), or changing its individual elements (structural change in the organization of state power, political or administrative-territorial division, the legal status of territorial units of the state, etc.).

The authors of this study put forward a hypothesis according to which each type of regionalization of the state-territorial structure, taking place in modern European countries and affecting the transformation of the form of state and territorial structure of the country as a whole or its individual elements ends with the adoption of the relevant normative legal act of constitutional significance. The aim of the study is to test this hypothesis, which involves the following tasks: theoretical and legal study of the types of regionalization of the state-territorial structure in modern European countries; analysis of the legal consolidation of the formation of territorial (political) autonomy within the state in the constitutional law of modern European countries; analysis of the constitutional and legal consolidation of the transformation of a unitary state into a regionalist one; analysis of the constitutional and legal consolidation of the redistribution of powers between the center and the regions in the Federal state.

The object of the research is the social relations emerging as a result of the influence of the regionalization process on the state-territorial structure of modern European countries. The subject of the research is the norms of constitutional law of modern European countries regulating relations between the state and territorial structure.

2. Materials and Methods of Research

The theoretical basis of the study was the works of scientists in the field of studying the state structure of foreign countries, in General, the form of state-territorial structure among which are works (Chirkin, 2011).

Analysis of the degree of development of the studied problems showed that in the Soviet and Russian legal literature of special works relating to the regionalization of the state-territorial structure, a little. To some extent, the analysis of constitutional and legal forms of certain types of regionalization process is given in dissertations. In particular, A.R. Mkrtumyan (2012) believes that in European countries the expansion of territorial autonomy is carried out through such legal forms as constitutional or legislative consolidation of the requirement to initiate appropriate changes in their status, preliminary consideration of the relevant laws in the legislative body of the Autonomous entity or in its referendum, or through the

independent adoption by the autonomy of a law enshrining its legal status (Mkrtumyan, 2012).

In addition, despite the attention of the scientific community to the study of unitary and Federal forms of state-territorial structure, in science, the issues of the legal nature of the regionalist States, and, accordingly, the constitutional and legal forms in which the transition to the regionalist state. The formulation of the concept of "regionalist state" and the definition of the legal forms of the corresponding regionalization process is difficult, since many features of this form of state are similar to the Federal one. We cannot limit ourselves to a closed list of signs, because this type of state by its nature is in the stage of transition, evolution. The scientist also notes that the combination of features taken from the unitary and Federal forms of state-territorial structure in each regionalist state is specific.

At the same time, it should be noted the absolute relevance of the issue of identifying constitutional and legal forms of the process of regionalization of the state-territorial structure in modern European countries, as well as the theoretical and constitutional-legal content and expression of the form of state-territorial structure (Narutto, 2013).

In this regard, we consider it necessary to conduct a comprehensive study, due to the above goals and objectives, as well as the subject area. The empirical base of the research is the normative legal acts of the current constitutional legislation of individual European States. The methodological basis of the study was mainly General scientific methods, including: analysis, synthesis, induction, deduction. The comparative legal method of research was also used.

3. Results

1. Constitutional and legal forms of the regionalization process, which consists in the formation of territorial (political) autonomy within the state, are:

i) constitutional consolidation of the status of autonomy for a separate territorial unit of the state (several units);
ii) adoption by the Parliament of the state:
- constitutional Laws on granting/expanding the status of autonomy of a territorial unit;
- constitutional Laws on the approval of the political and administrative statutes of Autonomous regions;
iii) enactment of referendum act on the issue of granting/extension of autonomous status (region).

In the process of regionalization, consisting in the formation of territorial (political) autonomy, as a part of a unitary or Federal state, a certain political-territorial entity (several entities) at the constitutional level is assigned a special legal position – the

status of autonomy. The main components of the constitutional and legal status of autonomies, according to most Russian scientists, are: the constitutional consolidation of the status of autonomy for a particular region; the establishment of the official symbolism of autonomy; legislative (statutory) registration of the status of autonomies; establishment of territorial boundaries of autonomy; establishment of regional authorities (legislative and Executive), granting exclusive competence; consolidation of the system of legal acts; formation of the budget of autonomy in the state budget; establishment of an additional official language.

For example, according to the Constitution of Spain (Chapter 3 on Autonomous communities) and the Statute on the autonomy of The Basque Country, the region forms a territorial Autonomous Association within the Spanish Kingdom. The territory of the Basque Country includes historical areas that coincide with the territories of the provinces. Accession to this region of another territory is possible provided that the latter decides on its accession in accordance with the procedure established by the Constitution (article 2 of the Statute). The official symbol of the Spanish autonomy is the flag, along with which the flags of the historical regions of the region are also recognized (article 5 of the Statute). The Statute of the Basque Country establishes an additional official language – Basque (El Euskera) (article 6 of the Statute).

In addition, section I of the Statute "On the competence of the Basque Country" (BA, 1978) contains a detailed list of the powers of the region that constitute its exclusive competence (for example, the establishment of the boundaries of municipalities; the activities and organizational structure of self-government bodies; internal electoral legislation; procedural rules and norms of administrative proceedings; social security, etc.). The Autonomous community may, by means of an organic law, be delegated powers within the competence of the state (article 150 of the Spanish Constitution). Section II on the authorities and administration of the Basque Country establishes the structure and powers of the regional authorities. Power and administration in the Spanish autonomy are exercised by the Parliament, the Government and its Chairman. Regarding the system of regulations, the Basque Country has its own legislation, laws and treaties and agreements between other Autonomous territories.

As another example, consider the Danish regulations. Thus, the parliamentary law "On self-government in the Faroe Islands" of 1994 (FI, 1994) establishes the structure, procedure for the election and activities of the bodies of the Autonomous province: the Parliament, the Prime Minister, the government (§ 1-39 of the Law). The laws of the Faroe Islands shall enter into force upon their adoption by Parliament and approval by the government (§ 26 of the Act). The Danish law on the internal Government of the Faroe Islands of 1948 (FI, 1948) establishes the areas of responsibility that are transferred to the Islands for self-government: the Constitution of the Faroe Islands, including provisions on Parliament and government autonomy,

parliamentary laws, public service; local government; utilities; housing; health; taxes; agriculture, etc. (art. 2, List A). The act also established an additional official language in the Faroe Islands – the Faroese language (article 11), as well as the official symbolism of autonomy, the special flag of the Faroese (article 12).

In addition, under section VIII of the Spanish Constitution (SC, 1978), on the territorial organization of the state, provinces representing a historical regional unit, border provinces and island territories may obtain self-government and form Autonomous communities on the initiative of the deputies concerned (art. 143). By issuing an organic law, the General Cortes, the Parliament of Spain – authorizes the establishment of an Autonomous community and approves the Statute on the autonomy of the territory (arts. 144, 146). Amendments to this Statute also require parliamentary approval through the adoption of an organic law (part 3 of article 147).

The Constitution of Portugal, within the legislative competence of the Assembly of the Republic, a unicameral Parliament – also enshrines the approval of the political and administrative statutes of the Autonomous regions. The form of the act is the law (part 3 of Art. 166) (PC, 1976).

Finally, consider the results of the referendum in Greenland – the Autonomous territory of Denmark. The referendum was held on 25 November 2008. At the turnout, almost 72 % of the Greenlanders voted «for» the expansion of self-government – 75.54 %, «against» - 23.57 %. Thus, the results of the referendum on the extension of the island's powers were formalized through the adoption of the Danish Act on Greenland home rule of 20 May 2009. The island is home to a small number of residents – about 60 thousand, however, despite this, discussions about full independence are conducted quite often. Former head of the Government of Greenland Hans Enoxen said that «the referendum in 2008 is another step towards independence» (GA, 2008).

2. The constitutional and legal forms of the regionalization process, consisting in the redistribution of powers between the center and the regions in the Federal state, are:

i) the constitutional institution of the Federal form of state-territorial structure, the consolidation of the principles of federalism, the structural change of the organization of state power;
ii) constitutional consolidation of the status of subjects of the Federation and their internal organization to the territorial units of the state;
iii) constitutional consolidation of differentiation of subjects of competence and powers between two levels of the government – Federal and regional.

To trace this type of regionalization process seems appropriate on the example of European countries such as Belgium, as well as the former Czechoslovakia and Yugoslavia. Thus, with the adoption of the Constitution of the Czechoslovak

socialist Republic (CSR) of 1960 (CZ, 1960) and the constitutional law of 1968 "On the Czechoslovak Federation" (CZ, 1968), the former unitary state on the basis of voluntary Union, the right of Nations to self-determination and the principle of respect for the sovereignty of national States was transformed into a Federation of two equal socialist republics – the Czech and Slovak. Two sovereign Nations – Czechs and Slovaks – expressed their will to live in a single Federal state through the establishment of the Czechoslovak Federation. The Czech socialist Republic and the Slovak socialist Republic formed a single Czechoslovak Socialist Republic (CSR), where the two republics had equal status, mutually recognized each other's sovereignty and the sovereignty of the CSR (article 1 of the Law).

Federal bodies of state power were also formed: The Federal Assembly, the Czech national Council, the Slovak national Council and National committees (part 2 of article 2). According to article 3 of the constitutional law, the territory of the Czech Socialist Republic and the territory of the Slovak Socialist Republic formed the territory of the CHSR, the boundaries of which could be changed only by the constitutional law of the Federal Assembly. Meanwhile, the change of the borders of each constituent Federation of the Republic required the consent of the relevant National Council also by means of the constitutional law. Citizens of the Czechoslovak Republic was recognized single citizenship (paragraph 1 of article 5).

It should be particularly noted that the constitutional law "On the Czechoslovak Federation" contained a separate Chapter devoted to the distribution of competence between the Federation and the republics (Chapter 2). This legal act established the exclusive jurisdiction of the CHSR (for example, foreign policy, defense, currency, Federal law, protection of Federal constitutionality, etc.) (art. 7), joint management of the CHSR and the two republics (for example, Finance, planning, banking, industry, external economic relations, agriculture, transport, post, development of science, labor, internal order and security of the state, etc.) (article 8) and, finally, residual competence: issues not directly related to the jurisdiction of the CHSR and were under the exclusive jurisdiction of each Republic (article 9).

The process of federalization also affected the Kingdom of Yugoslavia. As noted earlier, until 1947 Yugoslavia was a unitary state, but in the period from 1947-1991 it was transformed into a Federation. According to the Constitution of Yugoslavia of 1974, the state was a Socialist Federal Republic (SFRY), uniting six socialist republics (Bosnia and Herzegovina, Macedonia, Serbia, Slovenia, Croatia and Montenegro) and two socialist Autonomous regions – Vojvodina and Kosovo (within Serbia) (Art. 1-2). The republics within Yugoslavia were recognized as a state based on the sovereignty of the people, the self-government of the working class and power, while the Autonomous region was an Autonomous self-governing socio-political community (arts. The Constitution enshrined the unity of the territory of the SFRY – Greater Yugoslavia, whose borders can ‘t be changed without the consent of the republics and Autonomous regions. The territories of the republics

and Autonomous territories could not be changed without their consent (article 5). According to the Constitution of Yugoslavia, power in the country was exercised through the Federal bodies and bodies of the republics and Autonomous territories, the main tasks of the state – the Federal bodies, republics and Autonomous regions together on the basis of the principles of equality, responsibility, direct cooperation, agreement and self-government (art. 244).

At the same time, the Constitution contained a wide range of competences of the Federation, in particular, ensuring the territorial integrity and independence of the Republic, as well as the foundations of the system of socialist values based on self-government, socio-economic relations and the common foundations of the political system (article 281). In addition, Section III of the Constitution "Relations in the Federation and the rights and duties of the Federation" contained the division of legislative competence between the Federation and its subjects (articles 268-274).

Among the States of Europe, at the present stage of historical development carried out the transition to a Federal form of state-territorial structure, it is necessary to allocate the Kingdom of Belgium (BC, 1831). Since the 1970s, the state began to borrow Federal principles through numerous state reforms, which ultimately led to the constitutional reform of the territorial structure of the country, in particular, the consolidation of the Federal form of government. The Constitution of the Kingdom of Belgium of 1994, adopted after numerous reforms of the Constitution of 1831, was the result of the transition from a unitary form of state-territorial structure to a Federal one. The reform of the territorial structure of the state was expressed in the division of its entire territory into communities and regions. The federalization of Belgium was aimed at resolving the conflict between the ethnic and linguistic groups of the three Belgian regions, socio-economic contradictions and ideological tensions.

In this regard, it seems appropriate to summarize the main features of the unique model of federalism of Belgium : 1) the subjects of the Belgian Federation are represented by two types – extraterritorial communities and territorial regions (Art. 1-4 of the Constitution); 2) each subject has its own legislative and Executive bodies (sec. I CH. IV); 3) lack of hierarchy of norms, their autonomy and equality – Federal laws and laws of subjects have equal legal force; 4) the guarantor of the unity of the country are the all-Belarusian Federal institutions of state power (Institute of monarchy, Federal Parliament and government) (Art. 36-37; CH. II, section. I, II CH. III); 5) constitutional recognition of the competence of the regions while maintaining the exclusive competence of the Federal government in certain areas (e.g., ensuring uniformity of the currency; the establishment of electricity tariffs; the minimum requirements on education) (V. 35, 38, sect. III Chapter III); 6) the exclusive distribution of powers, in which each of the levels of power has certain powers (article 39; section. III CH. III, CH. IV); 7) exclusion of competing competence; 8) asymmetry of the Federation (the Flemish and Walloon regions have equal competence, while the Brussels-capital region is curtailed; the German-

speaking community is curtailed in the use of languages). Given these signs, modern scientists point out that the complex mechanism of relations between the regions of Belgium and the asymmetry of the Federation will inevitably lead to separatism. In recent years, Wallonia and Flanders have not ceased to speak in favor of defederalization, the creation of the Confederation.

3. The constitutional and legal forms of the regionalization process, which consists in the transformation of a unitary state into a regionalist one, are:
i) the inclusion in the Constitution of the regionalist characteristics of the form of the state-territorial structure and division of all territory into Autonomous entities (regions);
ii) the adoption by the Parliament constitutional laws on the approval of the political and administrative statutes of the Autonomous regions.

In the works of Russian and foreign theorists and statesmen there is popular idea of the emergence at this stage of historical development of a new form of state-territorial structure – regionalist state. Using the expression of Chirkin (2011), the regionalist state is a form of highly decentralized state structure, administrative and territorial units of which have a wide range of powers, considerable independence in solving state issues. This form of state-territorial structure is typical for those States that are officially considered unitary, but their entire territory or a significant part of it is divided into Autonomous entities with political independence.

Analysis of the constitutional provisions of the Kingdom of Spain showed that Spain is characterized by both a Federal form of government (for example, the right of autonomy to legislative initiative, the separation of powers between the state and the regions, the equality of the chambers of Parliament) and unitary (for example, the prohibition of autonomy to interfere in the process of constitutional reforms, the ban on the creation of a Federation of autonomy, the power of production from the Central government). From the point of view of P.M. Silinov (2005), the Spanish legislator managed to achieve a balance between these two forms through organic laws, agreements, informal political institutions, significant restrictions on the activities of the legislative bodies of autonomies, unification of the rules of regional elections in order to prevent the risk of undermining the constitutional consensus in the implementation of decentralization. Mixed forms of government can function successfully provided synchronous and mutual respect for the constitutional principles of regional self-government, the democratization of society, the democratic regime in the state, the constitutional control over its constituent parts.

In the opinion of the authors of this article, this balance has not been fully achieved. This is due to the urgent problems of Spain: the adoption of unconstitutional political decisions of Autonomous communities (for example, Catalonia (CA, 2006), Galicia) and, as a consequence, the desire for territorial separation; acute ideological confrontation between nationalist parties and separatist organizations (for example,

"ETA" – a radical, nationalist organization of the separatists of the Basque Country, operating since 1959; political party "Catalan national unity»); lack of a genuine regional representation body; inter-territorial asymmetry; incomplete model of territorial structure of the state – strong decentralization and ban on federalization, and its conceptual uncertainty (Uliyanishev, 2009).

In the formation of the modern Italian state, which also has a regionalist form of state-territorial structure, were combined regions with different socio-economic situation – North and South – rich and poor areas. The researchers note that to date, the Italian Republic has managed to avoid the threat to the territorial integrity of the state due to the lack of bright national-separatist movements by securing broad autonomy for the regions. However, there are opinions in the scientific literature about the development of separatism in modern Italy. For example, A.V. Baranov (2015) believes that in national (regionalist) States, in particular, in Italy, the risks of separatism inevitably arise due to globalization, the world economic crisis, incomplete nation-building or the crisis of the national state, the historical identity of a particular region, the cohesion of political elites, as well as the referendums held at this stage of historical development on independence in Scotland, Venice and Catalonia. There was a threat of regionalism turning into separatism. The scientist particularly notes the separatist movements in Venice, Lombardy, Sardinia and South Tyrol.

With the adoption of the legislative Act on the Union by the parliaments of England and Scotland in 1707 (EA, 1707), a single Union state of Great Britain was formed. The argument in favor of the fact that Britain is a regionalist state is the presence in its composition of three Autonomous entities (regions): Scotland, Northern Ireland and Wales. These British Union was empowered with limited autonomy by following normative acts: the Scotland Act 1998, the Act of Northern Ireland 1998 (NI, 2000) and the Act on the management of Wales 1998 The constitutional reform of the end of the 20th century was aimed at establishing legislative and Executive bodies in these regions. However, legally, the United Kingdom has the status of a single (unitary) state consisting of four regions, as confirmed by British law: each region is an integral part of the country; participation of the population of all regions in the elections to the House of Commons of the British Parliament is guaranteed; taxes imposed by the House of Commons are generally binding on the population of all four regions (WA, 2006).

Thus, the acts on Scotland, Northern Ireland and Wales, adopted by the British Parliament as a result of the constitutional reform of 1998 and following regional referendums, established the right of internal self-government for each region in different amounts.

Under the Scotland Act 1998, the Scottish Parliament (part I, article 1) and the Scottish Executive (Ministers and their staff) are formed in the region (part II, article 44). The Scottish Parliament has legislative competence: on a certain range of issues

it has the right to adopt Billy (laws), which come into force after the Royal approval (Art. 28). By analogy with Scotland, the Northern Ireland region has been given the right to legislate on a certain list of issues, which is a status of political autonomy, indicates the decentralization of power and the expansion of regional autonomy.

In its turn, as a result of the constitutional reform, the national Assembly of Wales (Parliament) was given the right to issue laws - "secondary legislation" (bills). Bills are passed based on the provisions which had been issued by the British Parliament with the aim of their development and specification. Regulations of Welsh Assembly cannot be revoked. It let us make a conclusion about the independence of the Assembly in the adoption of legal acts (part 4). In addition, the distinguishing feature of Welsh legislative system is that there is no separate legislative or executive authority. They are united in the Assembly (part 1).

4. Discussion and Conclusion

Thus, the study proves the hypothesis and demonstrates the need for further analysis of the legal content of the process of regionalization of the state-territorial structure in Europe and related issues of updating and improving constitutional legislation in this area.

In this regard, we believe it is necessary, first, to pay attention to the constitutional and legal mechanism for fixing the types of the regionalization process. In addition, special attention should be paid to the study of a new form of state-territorial structure – the regionalist state.

The purpose of this article is to demonstrate the constitutional and legal forms within which in Europe in recent years transformations of classical models of unitarism and federalism has been experiencing, changes in their constitutional regulation, as well as the approval in practice of constitutional law of foreign countries of new forms of state-territorial structure.

It should be noted that the constitutional law of the European States has accumulated extensive experience in consolidating and improving the constitutional and legal mechanism of the territorial organization of the state, providing both the preservation of state integrity and the realization of the rights of autonomies, national minorities.

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