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Democratization of Territorial Constitution: Current Trends and the Constitutional Experience of Denmark

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Abstract:

Purpose: *The paper aims to analyze the processes of decentralization of public authority in Denmark. The authors assume that the main reason for expanding territorial units' autonomy is a general trend towards democratization of unitary states, as evidenced in other European countries, such as Italy, France, Spain, the United Kingdom and Northern Ireland.*

Design/Methodology/Approach: *For the purpose of democratization of the territorial constitution of a regional country, it seems necessary: first, to create such constitutional governance mechanisms, which would enable to account for the interest of those populations to the fullest extent; second, to formulate the principles and norms of asymmetry of the territorial structure of a regional state with different legal status of different territorial units; third, to introduce a special legal mechanism for regulation of disputes between central and local governments.*

Findings: *Characterizing the process of democratization in the modern unitary state, the authors conclude that significant success in the area of democratization of the territorial organization of public authority is due to the principal constitutional and legislative reforms aimed at devolution and decentralization of central power and delegation of authorities to local self-government above mentioned processes.*

Practical Implications: *The research results may be implemented into legislation in order to improve and increase the effectiveness of realization of the vertical power separation in the decentralized states where territorial units are ensured with a relatively high level of independence and autonomy.*

Originality/Value: *The main contribution of this study is to establish an interdependence between the processes of democratization and regionalization of power in modern state, as well as to analyze the positive foreign legal experience in the amicable resolution of contradictions between central and self-governing authorities.*

Keywords: *Territorial constitution, democratization, decentralization, autonomy, administrative reform, the Faroe Islands, Greenland, Denmark.*

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1. Introduction

In 1987 the famous American researcher of federalism D. Elazar advanced that territorial constitution of many states will be subjected to a “federalist revolution” (Elazar, 1987, p. 6-11). However, this referred to more than just the transition from unitarism to federalism, but also to various forms of the decentralization of power employed within unitary states. The constitutional development of a range of states has confirmed that he was indeed correct in his proposition, even though the proposed term did not find support in the Russian scholarship. As a rule, the trend of territorial development of modern unitary states that was highlighted by D. Elazar is usually referred to as “regionalization” or “federalization” (Molchakov, 2018c, p. 303-305; Alebastrova, 2017, p. 393-394; Sardaryan, 2014, p. 668-674; Nekrasov, 2013, p. 61-62; Orekhovich, 2011, p. 11-12). It is precisely this common trend that Russian scholars identify as a leading cause for the reformation of the territorial constitution in many European states, including Denmark³.

Modern studies, dedicated to the decentralization of power, identify the following causes for this process: 1) the need to respond to local pressures and the ensuing political wisdom of yielding to them; 2) the central authority’s need for greater administrative and political flexibility by means of decentralization; 3) central authority’s ideological or pragmatic commitment to pluralism and its expression in terms of territorial self-rule; 4) an imitation of some successful examples taken from foreign experience (Duchacek, 1985, p. 68). It is obvious that in many European countries, including Denmark, the above-mentioned reasons within various combinations led to a reform of the constitutional regulation of the territorial distribution of public authority. Another issue that deserves particular attention is the problem of imitation of successful foreign experience, as a result of which we could observe a certain degree of likeness among the systems of territorial constitution, for example, in Spain and in the UK, which, in its turn is reflected in fundamental constitutional and political studies (Tierney, 2004; Molchakov, 2018a, p. 48-102). This feature is particularly relevant to our consideration of Denmark, primarily from a methodological standpoint, since it permits to analyse a case within the general framework⁴.

³*Serious constitutional reforms in the territorial constitutions could be currently observed in Italy (Shashkova, 2018b, p. 243-260; Sardaryan, 2016), Spain (Khenkin, 2018a, p. 29-40; Khenkin, 2018b, p.166-175; Shashkova, 2018a, p. 222-242; Khenkin, 2017), France (Karpenko, 2017, p. 93-131), the United Kingdom and the Northern Ireland (Molchakov, 2018b, p. 170-174; Molchakov, 2017, p. 161-173; Kodaneva, 2004,) and other European states.*

⁴*This position is further supported from the methodological point of view by other Russian researchers, in particular Svetlana I. Kodaneva, who, when talking about the territorial constitution reform of the United Kingdom, notes that the start of the devolutionary process in regard to Celtic regions should be sought in “the influence of general processes to which certain countries have become exposed to in the last decades” (Kodaneva, 2005, p. 192).*

However, in our view, the above-mentioned list of the reasons for a reform of territorial constitution does not account for one very important trend in unitary European states, upon which the decentralization is contingent upon. This is the phenomenon of the so-called “democratization of the unitary state”⁵, widely discussed in the Russian legal scholarship. As professor Boris S. Ebzeev notes: *“Apart from the rationalization of public authority and the creation of legal conditions for regional economic and social development, such decentralization of public authority acts as means of development of democratic institutes and a guarantee of their formation”* (Ebzeev, 2017, p. 459). An analogous position was expressed by professor Irina. A. Alebastrova, who believes that *“another important factor for the decentralization of power in modern states is the logic of democratic development – the aspiration to give the power in a vertical manner, which would be a guarantee against its usurpation and concentration, the increase in the popular demand for democratization and self-government with a simultaneous growth in its education and standard of living, as well as the rise in their free-time”* (Alebastrova, 2017, p. 393). The mentioned opinions of the Russian Constitutional scholars are an illustrative example of the fact that decentralization is precisely a result of the democratization of the territorial constitution, a guarantee against extreme centralization and the expanding processes of integration.

Another circumstance is also pertinent here. The process of democratization of the territorial constitution could take the form of both political, as well as administrative decentralization. Political decentralization is such a reform of territorial constitution which endows a certain territorial unit with legislative autonomy. It is the mere power to legislate that is of decisive significance here, rather than the breadth of the legislative functions. Political decentralization results in the creation of political autonomy, which in its turn enables a range of scholars to speculate that it amounts to a manifestation of the principle of federalism (Watts, 2008, p. 8-18) or to an appearance of federative elements within a unitary state (Kremyanskaya, 2015, p. 35). At the same time, administrative decentralization amounts to either delegating only powers in the sphere of administration, which results in an administrative autonomy, or a change within the structure of the central government, which creates a separate body, responsible for managing a certain territory (Decentralization of administration..., 2009; Decentralized bodies..., 2018). Therefore, the main difference between a political and an administrative autonomy is the delegation of the power to legislate.

⁵*It must be noted that the democratization processes are present not only in the unitary, but also in the federative states (Farukshin, 1997, p. 164-173), and influence the forms of modern states, in particular, the forms of government. (Bazina, 2018, p. 1071-1094; Leibo, 2018, p. 1071-1094; Pavlov, 2018, p. 1376-1397).*

The example of Denmark presents more interesting from the point of view of this distinction: here, the democratization of the territorial constitution is present in both forms – in a political (*vis-a-vis* the Faroe Islands and Greenland) and in an administrative (the Administrative Reform of 2007).

2. The Democratization of Territorial Constitution in Denmark

2.1 Preliminary remarks

The territorial unity of modern Denmark has been constitutionally laid down in 1953 in §1 of the 1953 Constitution, which stipulates that “*it applies on the entire territory of the Kingdom.*” It was precisely that year when Greenland finally ceased to be a colony and became a new territorial unit (province) of the State. This fact, as justly noted by professor Maxim A. Isaev, “*helps to conclude that as regards its territorial constitution, Denmark is a unitary state*”, but “*its overall unitary nature is not a bar from establishing autonomous territories within the State*” (Isaev, 2002, p. 104-105). Judging from this fact, we could assert that a gradual decentralization of Denmark as a unitary state will primarily encompass the expansion of the constitutional autonomy of the two island regions of the country – the Faroe Islands and Greenland. However, this is just one of the dimensions of the proclaimed tendency towards democratization of the unitary state – in the case of Denmark the reform will also touch upon its mainland, which was affected by the 2007 administrative reform.

Before proceeding to the analysis of the constitutional framework of the territorial autonomy of Denmark *vis-à-vis* the Faroe Islands and Greenland and the main provisions of the 2007 administrative reform, we must make several theoretical clarifications. First, when it comes to the island territories, we speak precisely of the autonomy of the Faroe Islands and Greenland, and not about self-government, as one could think looking at the Danish term “*hjemmestyre*”, which literally means “*home rule*” (Isaev, 2002, p. 281; Rakitskaya, 2017a, p. 140).

Second, another specific feature of the constitutional status of Denmark is that it is only indirectly prescribed. This is due to two circumstances. At the time of the adoption of the Danish Constitution in 1953, its drafters, amidst the dawn of the Cold War, were worried about further expansion of communist ideas on the remote islands, which could potentially lead to increased separatist moods among the Greenlanders (Rakitskaya, 2017b, p. 22-27). Apart from this, autonomy, being a more flexible and dynamic model of territorial constitution, was well-suited to redistribute the powers between the centre and the regions without the need to amend the hard constitution of Denmark. Certain paragraphs of the Danish Constitution of 1953 contain references to autonomous regions. According to § 1, the fundamental law covers the territory of Denmark, the Faroe Islands and Greenland. The Constitution foresees that special laws shall govern the self-government of the Faroe Islands and Greenland, the provisions of which will

provide these territories with broad autonomy in their inner matters (Germer, 2003, p. 43). § 28 of the Constitution lays down that the Folketing shall comprise 2 deputies from the Faroe Islands and Greenland. The representation quota for both territories is based on the principle of equality and does not depend either on the size of the territory or on the population residing in the territory (Danmarks Riges Lov med kommentarer, 2006, p. 249).

The elections of the representatives to the Danish Folketing in these two autonomies are subject to separate laws: Law No. 458 from 30 June 1993 about the elections to the Folketing on the Faroe Islands (Lov om folketingsvalg på Færøerne) and Law No. 822 dated 25 November 1998 on the Elections to the Folketing in Greenland (Lov om folketingsvalg i Grønland).

2.2 The democratization of the governance of the Faroe Islands

Throughout the entire history, both as a part of Norway and as a part of Denmark, the Faroe Islands have always retained special status. First, the representative body of the Faroe Islands was called the Althingi and comprised all adult residents of the island. With the adoption of the law of 1274, the Althingi was renamed into the Løgting, and has kept the name ever since. Denmark became a centralized state, where the local self-government, including in the territory of the Faroe Islands, is exercised through the Monarch's representatives. The Faroe Islands became an amt (a province), where the authority was exercised by the main administrative official. He unilaterally decided which laws of the kingdom were to be enforced on the territory of the Faroe Islands. In 1852, at the request of the citizens of the Faroes, the operation of the Løgting was started again. However, it resembled more an advisory body to the central Danish government on the issue of the exercise of power.

After the Second World War the majority of the residents of the Faroe Islands spoke in support of a new political status of the territory within the Danish Kingdom. After the negotiations between the representatives of the Løgting and the central government, a decision was reached to hold a referendum regarding the status of the Faroe Islands. The referendum took place on the 14th of December 1946. The citizens had to choose between complete independence from Denmark or accepting a territorial autonomy with a certain range of powers to be granted under the law on autonomy. The results of the referendum demonstrated that the majority of the population, albeit a slim majority, opted for the full independence of the Faroe Islands.

After the referendum, the question arose whether to qualify the held referendum as a consultation or a binding vote. The discussion of the issue dragged on and was only brought to an end after the adoption of the 1948 Home Rule Act (*Lov om Færøernes hjemmestyre*) of the Faroe Islands, which recognized that the Faroes are a part of the Danish territory that constitutes a self-governing ethnic unity.

After the adoption of the Home Rule Act (1948) the operation of the Løgting went through a drastic change. Before the Act of 1948 it was a consultative body, whereas after the Act had entered into force it became an independent legislature endowed with prescriptive jurisdiction on the matters falling within their authority of the Faroes (Rakitskaya, 2005, p. 167-168). In accordance with the Home Rule Act of the Faroe Islands, the legislative powers are divided into two blocks (Appendices A and B).

Some of powers listed in Appendix A can be exercised by the Løgting upon the mutual consent of the Danish government and the Faroes' Løgting. The powers listed in Appendix B can be conveyed to the Løgting only if the Danish government and the government of the Faroes (*landsstýri*) issue a decree. The legislative powers on the issues did not transfer the Løgting are reserved for the Folketing, where the Faroes have two deputies.

In accordance with the 1948 Home Rule Act of the Faroe Islands, the issues of domestic significance fall exclusively under the Løgting's purview. This is stipulated by Special Home Rule Act of the Faroe Islands No. 103 dated the 26th of June 1994.

In accordance with §1 of this Act, all legislative powers pertaining to the issues within the exclusive purview of the Faroes are shared between the Løgting and the Prime Minister of the Faroes Islands (*løgmaður*). The executive power is still concentrated in the hands of the local government of the Faroe Islands. Justice is administered by the Danish courts. The Faroes have no judiciary of their own, and each court is constituted in accordance with a special law on the judiciary on the Faroe Islands, which is adopted by the Danish Parliament (Rógvi, 2015, p. 154-155).

The year of 2005 saw a new stage in the development of the Faroes' autonomy. In May 2005 the Folketing adopted two acts, which were incorporated into the Home Rule Act of the Faroe Islands 1948: 1) The Law on the issues falling within the Jurisdiction of the Faroe Islands No 79 dated 12 May 2005; and 2) The Law concerning the conclusion of Treaties by the Faroe Islands No 80 dated 14 March 2005.

The Law on the issues falling within the Jurisdiction of the Faroe Islands No. 79 dated 12 May 2005, concerned the matters which were transferred under the jurisdiction of the Faroe Islands. This Law became a foundation for Articles 1 and 2 of the current Home Rule Act and substituted Annexes A and B to the Home Rule Act 1948. Article 1 of the Law on the issues falling within the Jurisdiction of the Faroe Islands (12 May 2005) lists all items that remain within the exclusive jurisdiction of the central government and cannot be transferred to the Faroes' authorities: 1) the Constitution of Denmark; 2) Citizenship; 3) the Supreme Court of the Kingdom of Denmark; 4) foreign politics, peace and security; 5) monetary and foreign exchange policy.

Article 2 of the discussed Law, active in the reading of Law No. 55 dated 26 May 2011, provides that the following matters can be transferred to the Faroes' after appropriate negotiations between the central and local authorities: prisons and detention centres; financial institutions and bodies of financial control; civil aviation; state insurance; health services; medical practice; obstetrics and hospitalization; intellectual property law; geodesy; passports; the police; the office of the prosecutor and the relevant elements of criminal justice; legal capacity; family and inheritance law; judiciary including the establishment of the courts; treatment of mentally incapacitated persons; international law; hydrographic and lighthouse services; immigration and the protection of borders.

The Law concerning the conclusion of Treaties by the Faroe Islands No. 80 dated 14 March 2005 provided the Faroes' government with the right to enter into international agreements on the issues within their purview and contained provisions, regulating their membership in international organisations. In accordance with Article 1(2) of the Law, international treaties on the matters simultaneously affecting both the Faroes and Greenland can be concluded by both governments upon their mutual decision. This Law also granted the Faroe Islands the right to send their envoys to Danish diplomatic missions abroad to represent the interests of the Faroe Islands (Article 3). The Law also envisages that the government of Denmark has the right, at the request of the Faroe Islands, to file a petition in the name of the autonomy to join an international organization, where such international organization allows for the membership of actors other than states and inter-state unions and where such membership would not contradict the constitutional status of the Faroes (Article 4).

2.3 The Democratization of the governance of Greenland

As was noted above, before 1953 Greenland, being a Danish colony, was under the direct control of the central authorities. The end of the Second World War and the rising anti-colonialism movement in 1953 forced the Danes to equate Greenland in Status with a province (amt), however the Greenlanders did not give up their hopes to enhance the autonomy of the Island. Therefore, a special Commission formed in 1975, building on the 1948 Home Rule Act (*Lov om Grønlands hjemmestyre*) proposed to the Folketing a project of an analogous Act for Greenland in May 1978 (Isaev, 2004, p. 393). This Act was adopted in November 1978 and approved at a referendum on the 17th of January 1979. Over 70 % of the Greenland voters chose autonomous status of the island, and since the first of May 1979 the Greenland Home Rule Act came into force.

According to this Act Greenland achieved the status of a territorial autonomy after the Faroes (Hannum, 1990, p. 341-346). However, the 1978 Act became just the first step towards the establishment of a real autonomy, since the governance had to become more democratic and responsive to the needs and interests of the population residing there. The new Greenland Home Rule Act (*Lov om Grønlands Selvstyre*)

No. 473 dated 12 June 2009 came into force on the 21 June of the same year. It was devised based on the so-called White Book No. 1497, compiled in 2008 by a joint Greenland-Danish Commission on the Matter of Autonomy. Its entry into force was preceded by Greenland's referendum on the expansion of its autonomy. The referendum took place on the 25th November 2008. Its results showed that 75,54 % voted to expand the autonomy, with 23,57 % voting against. The overall voter participation was 71,96 % out of 39 000 islanders, eligible to vote. The expansion of Greenland's autonomy eventualised in granting local government the right to independent utilization of their natural resources, extending the jurisdiction of the Danish Courts and Enforcement powers, as well as Greenland's authorities' enhanced influence on the Danish foreign politics in matters, pertaining to Greenland. Before the expansion of their autonomy, the local authorities were only responsible for healthcare systems, school education and social services.

Interestingly, the Preamble to the Greenland Home Rule Act 2009 proclaims that the people of Greenland have the right to self-determination under international law. The Act is based on the equal agreement between the authorities of Greenland and Denmark as equal partners. The Greenlandic is proclaimed the official language on the island. The Danish language can only be used in official bodies. As regards the right to be educated in Danish in Greenland's schools, the law is silent on this, however it is implied that the autonomous authorities should ensure the education in both languages to enable the Greenlandic youth to pursue education in mainland Denmark and other countries.

The new Greenland Home Rule Act 2009 contains special Chapter 8, dedicated to the issue of full independence for Greenland. In accordance with subpar. 1 para. 20 of the Act, the decision to become independent must be taken by the people of Greenland. In case of such decision, the authorities of Greenland and Denmark must enter negotiations and conclude a treaty between the governments upon the approval of both the parliament of Greenland and the Folketing. Importantly, only a local referendum is required and not a national one. In case of achieving independence, Greenland will exercise its sovereignty over the territory of the island.

The Greenland Home Rule Act 2009 delegates the authorities of Greenland the prescriptive and enforcement jurisdiction on the matters falling within their purview. Greenland's authorities have received the right to establish their own courts to administer justice on such issues. The legislative jurisdiction is exercised by Greenland's own Parliament – Inatsisartut, the executive is by its own government – Naalakkersuisut, and the judiciary is exercised by courts.

As regards the matters within the jurisdiction of Greenland, they are listed in two Annexes to the 2009 Act. Moreover, the range of issues listed in the Act is non-exhaustive. According to para. 4 Chapter 2 of the Greenland Home Rule Act 2009, the Parliament of Greenland and the Danish government can agree on other matters outside the Annex, which can be delegated to the autonomy. The laws adopted by

the Parliament of Greenland on the matters, concerning the autonomy, after they have been signed by the local Prime Minister, are known as “The Laws of the Parliament of Greenland”. As a rule, legal prescriptions of the Parliament enter into force two weeks after they were conveyed to the government, unless the law specifies otherwise.

The distribution of jurisdiction between Denmark and Greenland in the area of foreign policy and international relations is subject to the Constitution of Denmark and Chapter 4 of the Greenland Home Rule Act 2009. In accordance with the Danish Constitution of 1953 the Folketing and the Danish government are responsible for the exercise of foreign policy and have the right to undertake obligations stemming from international treaties (Rakitskaya, 2016, p. 307). § 19 of the Constitution of Denmark provides that constitutional powers of the Folketing and the central government in the area of foreign policy cannot be limited by the Home Rule Act.

Chapter 4 “International Relations” of the 2009 Law on the autonomy of Greenland contains many provisions, regulating the foreign jurisdiction of the autonomy, meanwhile prescribing that these provisions shall not limit the constitutional powers of the central government. In accordance with subpara. 2 para. 11 of the Greenland Home Rule act, the Danish government and the government of Greenland must cooperate in international matters, taking into account both interests of Greenland and of Denmark

The Government of Greenland is also entitled to enter into negotiations and conclude treaties with foreign states and international organisations, including agreements of technical character, which only concern Greenland and fall fully within the authority of its bodies. At the same time, the government of Greenland undertakes to inform the government of Denmark about the coming negotiations and any updates before the signing (as well as before the termination) of any treaty. International treaties are concluded by Greenland with a special remark: 1) “The Kingdom of Denmark as concerns Greenland” (when the treaty is international); 2) “the government of Greenland” (when the agreement in question is inter-governmental or administrative).

The central government, on its part, undertakes to inform the government of Greenland about all upcoming international negotiations, which can be of interest to Greenland. The government of Greenland can demand that the conclusion of the treaty should involve a minister, who would be responsible for drafting up the rules for cooperation in accordance with the general rules of the Home Rule Act, as well as define the criteria to identify what treaty can be considered to be “of special interest to Greenland”.

Before signing or terminating any treaty, the central government shall inquire about the opinion of the government of Greenland. If the central government decides to

conclude a treaty, which does not require the consent of Greenland, such treaty must not affect the interests of the autonomy.

On the issues exclusively concerning Greenland, the government of Denmark can mandate the government of Greenland to cooperate with the Kingdom's Minister of Foreign Affairs. Treaties, which were discussed both by the governments of Greenland and Denmark, are signed by the central government with the maximum possible involvement of the government of Greenland.

When it comes to membership in international organisations for members other than states and their unions, the Danish government has a right to seek consent of Greenland's governments to file a Declaration of accession, provided this would not contradict the constitutional status of Greenland. Upon the requirement of the Danish government, its representatives must be appointed to diplomatic missions of Denmark to guarantee the interests of Greenland in the areas, relevant to the jurisdiction of the autonomy. The central government reserves the right to place the financial burdens stemming from such representation on the government of Greenland.

The authorities of Greenland bear the same international obligations as the entire Kingdom. Any measures, which in the view of the authorities of Greenland are of international importance, including the participation of the state in international cooperation, must be discussed with the central government prior to their introduction (para. 16 of the 2009 Greenland Home Rule Act).

In accordance with para. 17 of the 2009 Home Rule Act, any legal initiative of the central government, concerning Greenland or affecting Greenland, must be agreed on with the authorities of Greenland within a set time frame prior to being filed with the Folketing. The same rule applies to any administrative acts of the central government.

The 2009 Greenland Home Rule Act kept the earlier dispute-settlement mechanism for the central and autonomous governments, which had been envisioned by the earlier 1978 Greenland Home Rule Act. Any disputes must be heard by a specifically created Council. The Council consists of seven people, two out of whom are appointed by the Danish government, two – by the government of the autonomy and three are the judges of the Supreme Court of Denmark, appointed by its President. One of the latter is appointed President of the Council. If four members of the Council arrive at the same decision, then the dispute shall be considered settled. Alternatively, the issue is passed on to the three judges of the Supreme Court to settle. Their judgment shall be final and binding on the parties. Such a procedure is rather effective, as it enables the peaceful settlement of disputes that arise between the centre and the autonomy.

2.4 The democratization of mainland Denmark

The new territorial division of modern Denmark was introduced on the 1st of January 2007. The reform pursued three goals: 1) to guarantee the effective functioning of the public sector to provide the maximum services without increasing the taxes; 2) to fortify the democratic fundamentals on the local level and provide social services on the level, closest to the population; 3) to establish a clear attribution of responsibility to the organs of each level (Rakitskaya, 2018, p. 7). These statements clearly support our position regarding the desire of modern unitary states to democratize their territorial constitution.

The 2007 administrative reform led to the creation of two administrative and territorial levels: the first (the higher) one is the level of State; the second (the lower) one is the level of regions and communes.

Danish legal scholarship, much like the legal scholarship of other Nordic states, regard communes as a local unity, which has its own legal personality, democratically elected bodies of power and which has the right to take decisions and levy taxes (Isaev, 2004, p. 386). In general, a commune (a unity) is regarded as a legal entity, possessing the right to self-govern.

The distribution of responsibilities between the state, regions and communes is governed by laws, enacted by the central parliament, as well as by multiple ministerial decrees. To ensure smooth cooperation between the authorities of various levels and to guarantee the provision of high-quality public services, the state retained such powers as security, justice, the police, education and scientific and research activities.

The fulfilment of the 2007 administrative reform was tasked to a special commission, which comprised representatives of the Danish government and communal and regional entities (Kommunernes Landsfor and Danske Regoiner). The Commission was responsible for delineating the zones of jurisdiction between the State, regions and communes.

In April 2013, the Commission prepared and presented to the Ministry of Economics and of the Interior of Denmark a 250-page report, containing the findings, recommendations and suggestions as the result of the reform.

The report noted that in general the reform was considered satisfactory, and it did not reveal the need to introduce any significant changes to the distribution of jurisdictions of different levels of power.

It is important to note that the 2007 administrative reform was supported by the Danes despite the drastic cut in the number of the communes. This wide-spread support, in our view, is based on the fact that the newly formed communes received new areas of jurisdiction (the entire social sector, including employment).

Another important factor contributing to the positive evaluation of the reform is the redistribution of financial resources between communes and regions: the former acquired 15% of the funds that used to be distributed to amts. In Denmark, only the government and the communes have the right to levy taxes; regions do not. The regional economy is therefore divided into three spheres: 1) healthcare; 2) social services and special education; 3) regional development.

All 98 communes, created in the country as the result of the reform are members of the Union of the Danish Communes (Kommunernes Landsfor), which employs about 400 employees. The Union exudes pressure on the main tendencies in local government and local decision-making. The Danish regions are united via the Union of the Danish Regions, which employees 170 staff members. There is no hierarchy between the communes and regions, since they have jurisdiction over different matters.

As a result of the 2007 reform, the average number of persons residing in a commune (56 590 people) considerably exceeds the analogous numbers for Europe (5 630 people). Moreover, the reform was aimed at keeping the commune's population at least at 20 000 people. The population of Danish regions varies from 0,6 million to 1,6 million. The communes that did not wish to join with other communes were given an option to conclude legally binding treaties of cooperation, modelled based on a specially enacted law. The provisions of this law cover five island- and two mainland- communes. In this way, only seven communes have the population of less than 20 000 people (The Local Government Reform..., 2005, p. 16). The changes in the administrative and territorial constitution of Denmark, following the 2007 reform, testify to separate processes of decentralization, which take place not just on the mainland, but also with regards to its island autonomies.

One of the goals pursued by the reform – that is, the strengthening of democratic foundations at the local level, was achieved through delegating to the newly formed communes of new matters of jurisdiction, primarily, in the area of social services and employment, as well as the re-distribution of funds between the regions and the communes in favour of the latter.

3. Conclusion

Drawing the conclusion to this study, we would like to note that the constitutional regulation of the territorial constitution of modern Denmark falls within the above-set trend of the democratization of the territorial distribution of public authority, which can be observed in European states today. The authorities of the autonomies are vested with independence in many areas and are very well-placed to deal with economic and social challenges for the interest of the local population. The territorial organization of autonomies is enabling in developing regions in a most effective fashion. Their special status serves as a guarantee of upholding and ensuring accord in a multinational and multicultural state. In Denmark, the Faroe

Island and Greenland, which have the status of political autonomies, successfully solve their own problems not just of social or economic character within their own legal power, but are also deeply connected with the issues of conservation and development of indigenous culture, since these islands are home to clusters of ethnic groups, residing there. This choice is understood, since other states with territories, where big ethnic communities reside, also chose this type of autonomy: for instance, Spain or the United Kingdom.

At the same time the process of democratization of territorial constitution in Denmark touched not only the remote territorial entities belonging to ethnic minorities, but also the administrative division of the other part of the territory, which also falls within the general trend observed in other countries, such as France (Domenak, 1999; Karpenko, 2017, p. 93-131). The 2007 administrative reform provided a more flexible system to account for local interests through delegating the relevant issues to the level of regions and communes.

As a concluding remark, we shall note just one disadvantage of the democratization of the Danish territorial constitution, which is also characteristic of other states, in particular, to Spain (Khenkin, 2018a, p. 29-40; Khenkin 2018b, p.166-175; Khenkin 2017) or the United Kingdom (Eremina, 2017, p. 87-105). It is the issue of secession in the climate of expansion of political autonomy of territorial entities, belonging to indigenous communities and the erosion of the principle of state integrity. It is possible that Greenland can become a completely independent state in the future. The Head of the Ministry of Foreign Affairs of Denmark, Thomas Flinger, after the 2008 referendum stated that the following: *“If Greenland wants to secede, it can do so, I mean that Denmark will not keep it by force. If the Greenlanders wish to be independent, they have the right to do so. However, we do share a strong historical bond”*. However, as known, forecasting future does not fall within the ambit of legal scholarship, which is why we will limit ourselves to merely stating that such a scenario seems possible

References:

- Alebastrova, I.A. 2017. Constitutionalism as a legal foundation of social solidarity. Moscow, Prospect.
- Bazina, O.O. 2018. Constitutional and legal status of the President of the Republic of China. *Opción*, 34(14), 1071-1094.
- Danmarks Riges Lov med kommentarer. 2006. 2. Ud. 1. Opl. København, Jurist- og Økonomforbundets Forlag.
- Decentralization of administration in the foreign countries. 2009. Ed. by A.N. Pilipenko. Moscow, Eksmo.
- Decentralized bodies in the system of executive power in the foreign countries. 2018. Ed. by A.N. Pilipenko. Moscow, Norma.
- Domenak, J. 1999. Territorial collectives of France. Nizhny Novgorod, Izd-vo Nizhegor. gosuniversiteta im.N. I. Lobachevskogo.

- Duchacek, I.D. 1986. The territorial dimension of politics within, among and across nations. Boulder: London, Westview Press.
- Ebzeev, B.S. 2017. Introduction to the Constitution of the Russian Federation. Moscow, Norma.
- Elazar, D. 1987. Exploring federalism. Tuscaloosa, University of Alabama Press.
- Eremina, N.V. 2017. The roots of Brexit: conflict of identities in the United Kingdom. *Outlines of global transformations: politics, economics, law*, 10(1), 87-105.
- Germer, P. 2003. *Statsorfatningsret*. 3 udg. København, Jurist og Økonomforbundets Forlag.
- Hannum, H. 1990. *Autonomy, sovereignty, and self-determination: The accommodation of conflicting rights*. Philadelphia, University of Philadelphia Press.
- Isaev, M.A. 2002. *Constitutional law of Denmark*. Moscow, Muravei.
- Isaev, M.A. 2004. Mechanism of power in the Scandinavian countries. Moscow, Gorodets.
- Farukshin, M. 1997. Federalism and democracy: complicated balance. *Polis. Political Studies*, 6, 164-173.
- Karpenko, K.V. 2018. Constitutional basics of the territorial structure of France. *Constitutional basics of territorial structure of foreign countries*. Ed. by K.V. Karpenko. Moscow, MGIMO-University, 93-131.
- Khenkin, S.M. 2018a. Separatism, Catalanian Way. *Mirovaya ekonomika i mezhdunarodnye otnosheniya*, 62(5), 29-40.
- Khenkin, S.M. 2018b. Separatism against the State: The Case of Catalonia. *Polis. Political Studies*, 3, 166-175.
- Khenkin, S.M. 2017. *The phenomenon of separatism: The experience of Spain*. Moscow, MGIMO-University.
- Kodaneva, S.I. 2004. *The British regionalism (constitutional reform)*. Moscow, Yurist.
- Kodaneva, S.I. 2005. The present and future of the autonomy in the UK. *Constitutional law: recent foreign researches*. Ed. by G.N. Andreeva. Moscow.
- Kremyanskaya, E.A. 2015. *Theory and practice of federalism: Comparative legal research*. Moscow, MGIMO-University.
- Leibo, Yu.I. 2018. Constitutional Regulation and Practical Realization of powers' separation in the Russian Federation. *Opción*, 34(14), 1322-1352.
- Molchakov, N.Y. 2017. Constitutional status of Scotland in the light of the British regionalism. To the jubilee of the Act of the Union of 1707. *Moscow Journal of International Law*, 2, 161-173.
- Molchakov, N.Yu. 2018a. *The concept of the regionalized state and its implementation in the UK*. Candidate Thesis. Moscow.
- Molchakov, N.Yu. 2018b. The British regionalism: specific features of the territorial constitution. *Eurasian Law Journal*, 3, 170-174.
- Molchakov, N.Y. 2018c. Regionalization as an approach for the reform of territorial constitution: issues of terminology. *Eurasian Law Journal*, 2, 303-305.
- Nekrasov, S.I. 2013. Centralism, decentralization and polycentrism in the territorial organization of contemporary states. *Publichnoe i chastnoe pravo*, 2, 60-69.
- Orekhovich, A.V. 2011. *The development of regionalism in the European countries*. Abstract of the candidate thesis. Moscow.
- Pavlov, E.Ya. 2018. Constitutional and legal mechanism of conducting foreign policy of the Czech Republic. *Opción*, 34(14), 1376-1397.
- Rakitskaya, I.A. 2005. *Constitutional status of autonomies in Denmark*. *Constitutional law of the European states*. Ed. by D.A. Kovachev. Moscow, Wolters Kluwer, 160-171.

-
- Rakitskaya, I.A. 2016. Government in the courtiers of the Northern Europe. Government in the foreign countries. Ed. by K.V. Karpenko. Moscow, MGIMO-University, 281-319.
- Rakitskaya, I.A. 2017a. Legal status of national territorial autonomies in Denmark: the elements of regionalization in a unitary state. Actual problems of comparative, foreign and Russian constitutional law. Ed. by I.A. Rakitskaya and N.Yu. Molchakov. Moscow, MGIMO-University, 137-177.
- Rakitskaya, I.A. 2017b. Regionalization in Denmark in the light of political transformations in Europe (exemplified by changes in the legal status of autonomies in Greenland and the Faroe Islands). *Pravo i upravlenie*. XXI vek, 1, 22-30.
- Rakitskaya, I.A. 2018. Constitutional basics of the territorial structure of Denmark. Constitutional basics of territorial structure of foreign countries. Ed. by K.V. Karpenko. Moscow, MGIMO-University, 6-44.
- Rógvi, K. 2015. Revideringar av självstyrelselagstiftningen för Färöarna. Självstyrelser i Norden i ett fredsperspektiv. Mariehamn, Tryckeri Ab.
- Sardaryan, G.T. 2014. Regionalization and federalization in the context of transformation of forms of territorial constitutions. *Politika i Obshchestvo*, 6, 668-674.
- Sardaryan, G.T. 2016. Political problems of the regionalization in Italy. Moscow, MGIMO-University.
- Shashkova, A.V. 2018a. Constitutional basics of the territorial structure of Italy. Constitutional basics of territorial structure of foreign countries. Ed. by K.V. Karpenko. Moscow, MGIMO-University, 243-260.
- Shashkova, A.V. 2018b. Constitutional basics of the territorial structure of Spain. Constitutional basics of territorial structure of foreign countries. Ed. by K.V. Karpenko. Moscow, MGIMO-University, 222-242.
- The Local Government Reform – in brief. 2005. København, Indenrigs- og Sundhedsministeriet.
- Tierney, St. 2004. Constitutional law and national pluralism. Oxford, Oxford University Press.
- Watts, R.L. 2008. Comparing federal systems. 3rd. ed. Montreal, McGill-Queen's University Press.