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LEGAL ADVANTAGES IN THE CONTEXT OF DIGITALIZATION
OF RUSSIAN LEGISLATION

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Abstract

The article reveals the implementation of the state's plans to create a "Digital state and legislation" model. Providing individuals and legal entities with more favorable opportunities and specific advantages in the exercise of their rights, freedoms and legitimate interests, by integrating the information and electronic environment into public life. The form of implementation of this strategic approach is the development of legal regimes based on advantages, such as: a) special administrative entities; b) zones with special conditions for the use of territories; c) special economic clusters. The risks that arise due to the possibility of obtaining particularly favorable conditions within the framework of the implemented "digital" model are identified, such as risks of a tort nature associated with formal legal criteria for the introduction of legal regimes based on advantages; risks caused by the use of technical and software components; risks of negative impact on the ideological, mental, and moral foundations of society. A system of legal measures is proposed to optimize the model of providing legal advantages through an online platform. These measures include: increasing the level of trust in the digital environment among the population, by improving the level of protection and information security, the ability to submit a request (complaint) in contactless mode for all subjects and spheres of public relations; overcoming the information technology gap between the skills and abilities of the population, within which it is proposed to implement a specialized program "Digital equality".

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1. Introduction

The modern Russian state, following the goals and objectives set for the transformation and improvement of the life of our country, as well as taking a course towards the post-establishment of civil society, continuously works to streamline legislation, establish mechanisms related to the security and protection of the rights, freedoms and legitimate interests of citizens. A special place in this process is occupied by regulations, standards, and rules of conduct. At the same time, the state of modern social, economic and legal systems of Russia shows that it is impossible to regulate public relations only by observing prohibitions and restrictions. We need other mechanisms that can influence the processes of self-regulation and encourage citizens to take initiatives. A typical example is the legal advantage, which is best known in legal science as immunities, privileges and benefits. The multiplication of human capital, the growth of national welfare and the investment attractiveness of the country are becoming national priorities and tasks at the level of top officials of the state. Without a stable financial system, it is unthinkable, and without a formed civil society, ensuring the solution of strategic tasks of Russia's development is not possible at all, since the development of civil society implies the presence of a strong middle-class activist sense of justice among citizens. This proves the need to study legal advantages under the prism of their economic and regulatory potential, touching on all new facets and possibilities of modern tools, such as the creation of the "Digital state and legislation" model. In view of the course taken in the process of increasing the total number of different forms improvement of the legal position of individual members of the public relations, the development of the theoretical model of the system benefits the right mechanism for their establishment in legislation and the establishment of limits will give a positive result, focused on the consistency of the legal regulation, will create the basis for rational use of state institutions such permissions, and applying them to addressees of means of restraint, significantly reduce the risks of defects of the possibilities of the benefits of discrimination, abuse of rights and opportunities.

2. Problem Statement

In order to determine the value of legal advantages in the process of forming and building digital legislation and the state, it is necessary to solve a number of tasks. It is necessary to identify the factors, grounds and conditions that contribute to the formation of advantages in society. To reveal the external forms of manifestation of advantages in law. To argue the place of advantages in the construction of the legal status of an individual. Show the value of advantages in the context of current legislative trends. Consider the regularities and disadvantages of technical and legal consolidation of advantages in modern Russian legislation. To show the place and role of advantages in the general theory of human rights, as well as to relate them to the fundamental rights and legitimate interests of a person and citizen.

3. Research Questions

The research questions for this paper were: what factors contribute to the formation of advantages in society? How should the place of advantages in the construction of the legal status of an individual be argued? How can we demonstrate the value of benefits in the context of current legislative trends? What are the regularities and shortcomings in the establishment of advantages at the legislative level in modern

Russian legislation? What factors should be used to define the place and role of advantages in the general theory of human rights? What is the mechanism for establishing legislation and determining the limits of legal advantages that will allow you to effectively build a digital state and legislation? How can they be correlated with the fundamental rights and legitimate interests of the individual and citizen in the country? What kind of legal advantages of the state will be able to achieve a certain kind of favorable conditions, predicting all possible risks caused by the implementation of such tools? How can we formulate a concept of measures aimed at improving the effectiveness of the set policy objectives and goals?

4. Purpose of the Study

The purpose of this study is a comprehensive analysis of the formation of a theoretical model and the technical and legal design of the system of advantages in law. Search for new mechanisms that can influence self-regulation processes and encourage citizens to take initiatives. Analysis of legal advantages for tools capable of self-regulation of civil initiatives. Research of legal advantages under the prism of their economic and regulatory potential. Search for new tools that help to intensify the construction of the "Digital state and legislation" model. Offer specific legislative recommendations on the research topic. Study of mechanisms aimed at improving the process of legal regulation through the system of advantages.

5. Research Methods

The dialectical method was chosen as the ideological basis of the research. It allowed us to argue the connection of advantages with related categories and institutions of law: permissions, rewards, incentives. In the work widely used general scientific methods such as analysis, synthesis, system-structural, functional, sociological, etc. The connection and regularities of scientists' views on certain types and forms of benefits are traced. This connection is established depending on the period of their existence and the specific state-legal formation. The reasons for the events that took place, as well as their consequences, are indicated. Among the special legal methods of cognition, special attention is paid to formal legal, comparative legal methods, which are used to establish specific essential and substantive features of modern advantages in law, technical and legal disadvantages when presenting them in legislation.

6. Findings

Recently, during the pandemic and the global financial crisis, such phenomena as the digital state, digital identity, digital economy, and digital law have become increasingly popular. The vector of implementation of the idea to transform such phenomena into reality, putting them in various areas of scientific research is gaining more and more turn (Barnes, 2020; Bukht & Heeks, 2018; Grover et al., 2020; Mirolyubova et al., 2020; Nevskaya, 2020; Tsirenschikov, 2019). The unusual nature of such definitions for modern law has given rise to a number of scientific discussions. Thus, the scientific literature discusses the question of whether it is acceptable to call a set of objectively developed and relatively separate legal capabilities of a person in the online environment the so-called "digital law" (Talapina, 2018). Proponents of this legal "digital paradigm" set the task of a radical change in the development of law, its digitalization.

We consider ourselves to be opponents of this approach, leaning to the opinion that all we are talking about is changes in the means of securing traditional rights (by using the capabilities of digital codes, ciphers, cryptography, etc.), their adaptation to the new conditions of modern society and the state. Accordingly, it is inappropriate to talk about "digital law", but it is acceptable to highlight "digital legislation". The existing model of the "Digital state and legislation", which Russian politicians and statesmen strive to implement, we believe, first of all, is associated with the aspirations to create a society of "information and services". The main task of the information and electronic environment is to demonstrate to individuals and legal entities more profitable opportunities, specific advantages of realizing their rights, freedoms and legitimate interests in an online environment. This new, we can say digital dimension is not fully supported today, but it is still supported, especially by the active part of the population, the business community. The legal policy of creating conditions not only for the active integration of the Russian legal space and economy into the digital environment, but also for using the potential of special legal tools that allow subjects to realize their capabilities in more favorable conditions, actually began with the proposals of the President of the Russian Federation. They were expressed at the meeting on October 10, 2017 and their content most succinctly reflects the message of Putin which provide us with new technological solutions in the financial sector. What advantages, their specific types and forms of implementation in legislation in this case can we talk about? The development strategies named by the head of state have been implemented through the regulatory framework of the national program "Digital economy of the Russian Federation", which sets out opportunities to improve the financial situation through legal advantages, such as obtaining loans at a preferential rate for organizations to implement projects in the field of information technology; the functioning of special legal regimes in the digital economy (so-called "regulatory sandboxes"), which are based on the functionality of legal immunity, etc. The needs of implementing strategic political plans to create the considered model of the state require an appropriate integrated, systematic approach to ensure the most comfortable and acceptable conditions for the subjects. In fact, today we are no longer talking about isolated manifestations of any mechanisms for improving the legal status of individual legal entities and individuals. We are witnessing complex processes of implementing legal policy to develop a digital state model and legislation based on legal regimes based on advantages.

The legal regime based on advantages in the context of digitalization of legislation should be understood as a combination of special conditions that create an environment of maximum favorability for a subject with a special legal status in the form of privileges, benefits, and other advantages in order for them to implement both state interests and their own interests. The definition we have formulated is confirmed in the position of the head of state. Thus, on February 6, 2019, at the Business Russia forum, Vladimir Putin stressed the importance of using various tools in the country's policy that are part of the system of legal advantages and provide for a more favorable legal position of some subjects over others (Gereykanva, 2019). This category of legal advantages includes, for example, tax benefits, and special legal procedures in the form of "hypothecary holidays" for business entities, which would allow them to get out of the crisis as painlessly as possible in difficult financial conditions, such as COVID-19, and to ease their situation as much as possible. Switzerland has promised 10 billion Swiss francs (about 10.5 billion US dollars) to its companies to support production in the face of the negative impact on the economy

from the coronavirus infection. A similar measure of a supportive nature is provided by immunities in the form of tax exemption for medical and educational organizations. Of the above-mentioned legal advantages, the privilege has taken an unprecedented leading position in the report of the head of state.

The "Digital state and legislation" model is primarily aimed at the active application of proven positive aspects in terms of increasing freedoms in the business sphere in order to achieve a favorable economic climate. In the chain of such legal regimes, we can distinguish: special administrative entities (Oktyabrsky and Russian Islands in the Kaliningrad region and Primorsky Krai, which are in demand in the implementation of the capital amnesty procedure); zones with special conditions for using the territories of the tourism industry sector; special economic sectors, such as free economic zones (created for duty-free trade, exemption from additional financial encumbrances). The above-mentioned legal regimes also have their own gradations within their structures, their own specific classification. Thus, the category of privilege, in contrast to its other types, united by a common system of legal advantages, such as benefits, immunities, etc., has a pronounced economic and industrial orientation, and is aimed at developing the state's position in this area.

However, despite the economic component of many privileges, it is not necessary to limit their mission only to the financial and economic component. Undoubtedly, there are also humanistic messages in them: the desire to improve working conditions and recreation of workers should not be a secondary task in state policy. For this purpose, the conditions for creating a single space of state bodies, the "single window" regime are being expanded, which significantly reduces red tape, and a number of measures aimed at simplifying the procedure for obtaining subsidies and compensation for housing and communal services have proved the state's intentions to work clearly and consistently in this direction. There were cases when such categories of citizens as disabled people, single mothers, and large families were deprived of the opportunity to use state support due to the negligence of officials and unscrupulous management companies as a result of low material income. As an example, clearly demonstrating changes at the state level towards improving this situation, it was established that the executive authority of the regions or an institution authorized by it independently requests information necessary and sufficient for providing subsidies or compensation for expenses for housing and utilities. It is also prohibited to require documents containing the specified information from citizens. The only negative nuance of such a decision is probably only the date of entry into force of such a decision – January 2021. This kind of postponement of this decision is due to the insufficiently perfect system of the material and technical base of the state, which would allow launching the "Digital state and legislation" model in full force.

Another distinctive feature of the "Digital state and legislation" model, which combines such postulates as legal equality, differentiation, and regimes of legal advantages, is the course of the government apparatus to strengthen its authority and spheres of influence. By creating a platform for citizens to discuss all processes and phenomena of society in a broad social way, such as online forums, discussion platforms, and public opinion research through interactive voting, and by facilitating access to services (electronic payments, online user accounts), the state is not only bringing society closer to the free access to these services, but also solving a number of tasks for itself aimed at facilitating the possibility of monitoring these phenomena and processes.

It is necessary to understand that the realities of today caused by the problems of social tension as a result of the pandemic, rejection of the individual, caused by a massive and painful sense of unfair inequality of opportunities (Bakaeva, 2018) have also worsened during the period of coronavirus infection. Assessing the stress of the situation and the possible consequences of such phenomena the power, using the potential of media, not distancing himself from the justified critical views of the population on the socio-economic problems, can provide dialogue, thereby creating a platform and a springboard for strengthening the citizens activist justice. It should be noted that the current government has all the digital resources and opportunities for this. So the governor of the Samara region Azarov, having a page in social networks, informs citizens about the current situation in the region, actively participates in an information blog, bringing up-to-date information to the attention of each resident of the region, answers questions, and often reveals sore topics and offers solutions to problems. This undoubtedly contributes to the formation of a collective sense of justice among citizens and a joint approach to the wants and needs of the region. As effective mechanisms for such work with the population, we should also note the official pages of public servants in social networks, electronic reception rooms, and much more. It is important to firmly determine what concept we are guided by, what course as a democratic legal state our state takes as priorities: the state for citizens, or the state for the political elite. In our opinion, a very important area of legal policy for implementing the "Digital state and legislation" model is the timely adoption of measures aimed at strengthening the state's resilience to various economic fluctuations, and the implementation of modern projects, such as measures to support "self-employed citizens". This was especially true during the pandemic, when most enterprises switched to remote work, while some enterprises were forced to reduce their employees, thereby unwittingly adding to the ranks of the potentially "self-employed". According to the established requirements, the status of a "self-employed citizen" is verified through the taxpayer's online account. However, even the simplified registration system does not fully encourage citizens to register as "self-employed". Over 15 million citizens of the Russian Federation, carrying out business activities, do not formalize their employment relationships, which does not contribute to strengthening financial discipline in the country. In this regard, the state has made an unprecedented experiment (even on an international scale) by establishing a special tax regime – the "tax on professional income" (Federal law No. 422-FZ of 27.11.2018). By implementing such an experiment, the state pursued many goals, one of which was to achieve the legalization of the shadow economy, and as a result, to replenish the state treasury with the income of the self-employed, officially transferring them to the legal regime, while giving the opportunity to avoid responsibility for illegal business activities and non-payment of taxes.

The tax regime for "self-employed citizens" is provided in a special mobile software application "My tax". This procedure allows you to minimize administrative barriers, avoid red tape, and at the same time get a number of advantages in the form of a tax benefit (the rate of 4% for individuals instead of 13%, for individual entrepreneurs and legal entities – 6%), a special legal procedure (tax deduction, i.e. a reduction of the tax amount no more than 10,000 rubles). However, the establishment of a maximum-favored-nation regime would be very ineffective without measures to limit attempts to abuse benefits. In this regard, we should share the position of professor Bakaeva (2018), who proposes to develop and implement a mechanism for monitoring the expenses of citizens who legally have the status of "unemployed". In this case as evidence that they received unreported income, the author proposes to

consider the acquisition of real estate, buying expensive things, cars, trips abroad etc. In our opinion, it is also necessary to provide for the possibility of differentiated liability by developing a set of preventive measures aimed at preventing the concealment of income from taxation. It is suggested that when determining the amount of an administrative fine for non-payment of tax by "self-employed citizens", be guided by the amount of benefits received, with elements of a progressive scale. That is, if an administrative offense is repeated for such acts, the amount of the fine increases to 50%, and in the case of repeated violations – up to 100 %. Sanctions actions are a necessary measure aimed at maintaining equal conditions in the labor market, since the "shadow" sector does not bear the tax burden, unlike the legalized one, and, accordingly, the cost of providing services is much lower.

7. Conclusion

Based on the above analysis, we come to the conclusion that the state, taking a course towards digitalization, will certainly provoke an increase in competitiveness, and this, in turn, is one of the basic foundations of the legislative deviation from universal equality in favor of the legal advantages of a separate category of subjects. In addition, all measures taken in the country to stimulate and raise the competitiveness of domestic enterprises are unthinkable without an export injection. For this purpose, the state is ready to make administrative, credit and other compromises aimed at easing and establishing systems of necessary benefits for foreign investors. Such measures may include the creation of free trade zones with Singapore, India, Egypt, and the DPRK. The next key direction of the legal policy to create the "Digital state and legislation" model is to minimize administrative barriers in the mechanism for implementing the right to various benefits. In his message to the Federal Assembly, the president of the country draws attention to the creation of a digital platform that would simplify all the necessary activities in the electronic document flow mode, starting with the submission of various applications and ending with the passage of the relevant authorities and departments. The professional community must come to the realization that all kinds of artificially created barriers will create obstacles for the business community. In order to prevent the outflow of entrepreneurs who register their assets abroad, the state has taken a number of drastic measures, including by realizing the potential of legal advantages. One of these measures was the extension for another year of a special legal procedure in the form of an amnesty of capital, as well as exemption from paying taxes on personal income from the profits of foreign companies controlled by them, but with the condition of mandatory presence of rules-restrictions in the form of exceptions – only for tax residents. Speaking about all the advantages of implementing the "Digital state and legislation" model, I would also like to mention some risks.

A formal legal criterion, the introduction of legal regimes based on the benefits it may create the ground for threats tortious nature. So, if you do not create a strict framework for evaluating the receipt of grants and quotas, the probability of committing administrative offenses and disciplinary actions in the conditions of non-compliance with the competitive procedure for obtaining is very real. The ideological, mental, and moral foundations of our society can also act as negative factors - the last manifestations of the digital state and legislation. This is due to the information and technical gap between the age generations, urban and rural populations, people who have and do not have access to the Internet and skills to work in it. This can provoke social rejection of the individual. And in order to avoid this kind of phenomenon, the

state should take care of the possibility of improving the information and technical literacy of the population of different social and age groups. It is also necessary to constantly improve the professional development of civil servants when using the online environment and working in it, in order to prevent a decrease in labor indicators and the subsequent loss of a job. All of them require not only a thorough study for subsequent warning, but also the development of specific measures to improve the system of transparency of granting all legal advantages, new approaches to the formation of accountability of benefits received, strengthening measures of both state and corporate, public control, etc. At the same time, an important issue remains the possibility of implementing all the necessary measures aimed at optimizing the "Digital state and legislation" model, but without creating additional barriers. In our opinion, such measures should include: increasing the level of trust in the online environment among the entire population, by improving the level of protection and information security, and the ability to submit a request (complaint) in contactless mode, while receiving an effective response to the results of such requests, rather than a formal one; the improvement of material-technical component, operational improvement and bringing to an optimal state appropriate software (for example, the state bases of housing and communal services or the contactless system of tax administration); bridging the information technology gap between the skills and abilities of the population, which requires implementation of a specialized program "Digital equity". For these purposes, it is proposed to analyze the facts of illegal building of barriers that restrict the rights of subjects focused on obtaining benefits, as well as information about their illegal behavior. All the above mentioned initiatives, in our opinion, will help to ensure, on the one hand, Russia's economic, scientific, technical and legislative progress, guarantee its competitiveness in the international arena, and, on the other hand, create a legal framework for a systematic, balanced adaptation of public life conditions to new digital realities, thereby avoiding uncontrolled implementation of the granted powers in this area. Thus, acting as the main social regulator, digital legislation will become the necessary guarantor of the inviolability of fundamental human rights, and will ensure the positioning of self-centered personality within the information environment.

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