

## Regulatory sandboxes as a model for the German legal services market

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Whilst known from the FinTech sector as a mean to test alternative business models, regulatory sandboxes and experimentation clauses were recently addressed in the conclusions of the Council of the EU as tools for an innovation-friendly, future-proof and resilient regulatory framework that masters disruptive challenges in the digital age. In these conclusions, which were adopted on 16.11.2020, the Council mentions legal services as one of the fields where regulatory sandboxes are already in use.

Legal services have so far played a rather secondary role in the discussion about possible fields of application for regulatory sandboxes in Germany, although there have certainly been some developments in Europe and on Member States' level.

In Germany, the Federal Ministry for Economic Affairs and Energy has developed a strategy on regulatory sandboxes in 2019. Experimentation clauses are already included in some legal provisions (e.g. Section 2(7) of the Passenger Transportation Act (Personenbeförderungsgesetz – PBefG)).

In practice, there exists a variety of potential legal applications. For instance, a blockchain system developed by the Federal Chamber of German Civil Law Notaries won the 2020 Innovation Award of the Federal Ministry for Economic Affairs and Energy. The system uses blockchain technology to verify whether a power of attorney or a certificate of inheritance is still valid.

Already in 2016, the UK established a regulatory sandbox for legal services. In May 2020, the national technology support network Tech Nation introduced, in collaboration with the Lawtech Delivery Panel and the Ministry of Justice, the regulatory sandbox program "LawTechUK". The program includes an online dispute resolution mechanism for SMEs, an Online-Hub and a Training Center offering freely accessible information on Legal Tech. In December 2020, 5 out of 65 applicants have been selected for the regulatory sandbox program.

Taking these initiatives into account, the Council followed the recommendations of a study by the EU Commission in 2019 which came to the conclusion that improving the EU's innovation-friendliness also requires legislative incentives. Regulatory sandboxes and experimentation clauses would allow new business models to enter the market. Nonetheless, the use of regulatory sandboxes and experimentation clauses must always ensure a high level of protection of citizens, consumers, employees, health, climate and the environment as well as legal certainty and fair competition. Within these boundaries regulatory sandboxes may provide an opportunity to offer legal services in a future-proof manner, to strengthen the competitiveness of the German legal services market and to ultimately safeguard the rule of law.

The Commission is now called upon to present a progress report in the first half of 2021 and to present its final results and analyses, including practical

recommendations on the future use of regulatory sandboxes on EU level, in the second half of 2021.