
Intellectual Property, Media and IT

Legal Flash | Portugal

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Strategy for digital transition and regulatory sandboxes

On April 21, 2020, the following resolutions were published: Council of Ministers Resolution 29/2020, establishing the general principles for creating and regulating regulatory sandboxes; Council of Ministers Resolution 30/2020, approving the Action Plan for the Digital Transition; and Council of Ministers Resolution 31/2020, creating the Portugal Digital Mission Structure.

Regulatory sandboxes are physical spaces or locations where new technologies, products, services, innovative processes, and models are demonstrated and tested in a real environment (e.g., 5G mobile networks and Internet of Things, autonomous vehicles, artificial intelligence, and blockchain). This is done by creating specific and adapted regulatory frameworks.

Council of Ministers Resolution 29/2020 establishes the principles on which the regulatory framework for regulatory sandboxes should be based. These principles favor mechanisms that increase legal flexibility (e.g., exception or experimentation frameworks) and incentive mechanisms for experimentation when flexibility mechanisms are not possible. This across-the-board regulatory framework will not prevent sectoral measures from being adopted to bring Portugal in line with European initiatives.

Several principles should be guaranteed by regulatory sandboxes:

- › **Strategic interests:** The legal framework will ensure the needs of the most regulated sectors of the market are met, bringing strategic value and potential for disseminating the technology in the context of transforming industries related to energy and the digital transition.
- › **Security:** The applicable regime will consider the need to protect people, consumers and goods, as well as the need to respect privacy and personal data protection rules.
- › **Ethics:** Experimentation must be ethical, accountable and transparent, and it must not discriminate against other technologies or innovations or those based on regulatory sandboxes that are already in place and in operation.
- › **Equality:** Constituting regulatory sandboxes should leverage investment in the interior of the country and in remote or peripheral areas, and it should incorporate accessibility and usability requirements to choose the products and services subject to experimentation.
- › **Advertising:** The results of regulatory sandboxes should be disseminated through society to increase knowledge and give rise to new practical applications.

The constitution of regulatory sandboxes will be supported by provisional structures, including a committee of experts from public and private entities that, in collaboration with the Agency for Administrative Modernization, I.P., will propose the measures to be adopted regarding industrial property rights.



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