

ESSAYS

“REGULATORY SANDBOXES” IN RUSSIA: NEW HORIZONS AND CHALLENGES

Damir R. Salikhov

Lomonosov Moscow State University
1, Leninskie Gory, Moscow, Russia, 119991

Abstract

“Regulatory sandboxes” are regarded as a special mechanism for setting up experimental regulation in the area of digital innovation (especially in financial technologies), creating a special regime for a limited number of participants and for a limited time. Russia has its own method of experimental regulation, which is not typical but may be helpful for other jurisdictions. There are three approaches to legal experiments (including digital innovations) in Russia. The first approach is accepting special regulation on different issues. There are recent examples of special laws (e.g. Federal Law on the experiment with artificial intelligence technologies in Moscow). An alternative to this option is establishing experimental regulation by an act of the Government if legislation does not prohibit it (e.g. labeling with means of identification). The second approach deals only with Fintech innovations and provides a special mechanism to pilot models of innovative financial technologies. The participants of such a “sandbox” may create a close-to-life model in order to estimate the effects and risks. If the model works fine, the regulation may be amended. The third approach works with creating a universal mechanism of real-life experiments in the sphere of digital innovations based on the special Federal Law and the specific decision of the Government of the Russian Federation or the Bank of Russia in the financial sphere. The author compares the three approaches and their implementation within the framework of Russian legislation and practice and concludes that this experience may be used by developing countries with inflexible regulation, in order to facilitate the development of digital innovations.

Keywords

sandboxes, regulatory sandbox, digital innovation, legal experiment, Russian experience, digital law

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«РЕГУЛЯТИВНЫЕ ПЕСОЧНИЦЫ» В РОССИИ: НОВЫЕ ГОРИЗОНТЫ И ВЫЗОВЫ

Д.Р. Салихов

Московский государственный университет им. М.В. Ломоносова
119991, Россия, Москва, Ленинские горы, 1

Аннотация

«Регулятивные песочницы» рассматриваются как особый механизм экспериментального регулирования в области цифровых инноваций (в первую очередь в области финансовых технологий), который создает специальный правовой режим для ограниченного числа участников в течение определенного времени. В России представлен собственный способ подобного регулирования, который не является типичным, но может оказаться полезным для других государств. Так, существуют три соответствующих подхода к правовым экспериментам. Первый — введение специального правового регулирования. Речь идет об издании специальных законов (к примеру, Федеральный закон об эксперименте с технологиями искусственного интеллекта в Москве) либо установлении экспериментального регулирования подзаконным актом правительства (например, маркировка средствами идентификации). Второй подход касается только инноваций в сфере финансовых рынков и предоставляет специальный правовой режим для пилотирования моделей инновационных финансовых технологий. Участники такой «песочницы» могут создать приближенную к жизни модель для оценки последствий и рисков ее внедрения. Если модель будет функционировать оптимально, в правовое регулирование могут быть внесены соответствующие изменения. Третий подход касается создания универсального механизма реальных правовых экспериментов в сфере цифровых инноваций. Автор сопоставляет указанные подходы, используемые в Российской Федерации, и приходит к выводу, что этот опыт может оказаться полезным для развивающихся стран с довольно жестким регулированием в целях содействия развитию цифровых инноваций.

Ключевые слова

песочницы, регулятивная песочница, цифровые инновации, правовой эксперимент, российский опыт, цифровое право

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The idea of so-called “regulatory sandboxes” is not brand new; this approach is pretty common in the experimental regulation of digital innovations, especially fintech innovations.

A basic prerequisite for this institution is in the problem of the development of technologies happening faster than regulation (Fenwick & Wulf, 2017). Under these circumstances, the government is looking for ways to make regulation more flexible to assist with sustainable and effective development across different areas of the economy.

The motherland of “regulatory sandboxes” is the United Kingdom (the first “sandbox” was designed in 2016)¹.

The same mechanisms exist in the United States of America (Allen, 2019), Australia², Singapore³, the United Arab Emirates⁴, Hong Kong (Huang et al., 2020), Switzerland⁵, Thailand⁶, Indonesia⁷, Republic of Kazakhstan⁸, Bahrain⁹, Jordan¹⁰, Sierra Leone¹¹, and a few other countries.

According to mass media, at least eight countries are working on the same idea — Brunei, the People’s Republic of China, India, Kenya, Mexico, Mozambique, Nigeria, and Pakistan.

This diverse mix of countries shows that specific countries with different legal and political traditions are interested in this institution. Undoubtedly, the list of countries will be broadened within a few years.

In general, the mechanism of “regulatory sandboxes” provides methods for testing new technologies and business processes within the limited number of participants, followed by special legal prescriptions, which means either cancelling assorted mandatory requirements for the purposes of experiments, or developing special requirements and “individual” provisions. Both of these options have a limited period, which is necessary for checking up the new technology or business processes, and the effects of their implementation.

¹ Financial Conduct Authority. (2020, May 04). *Digital sandbox – coronavirus (Covid-19) pilot*. <https://www.fca.org.uk/firms/innovation/digital-sandbox>

² Australian Securities & Investments Commission. (2017, December). Retaining ASIC’s fintech licensing exemption (Consultation Paper No 297). <https://asic.gov.au/for-business/innovation-hub/fintech-regulatory-sandbox/>

³ Monetary Authority of Singapore. (n.d.). *Overview of regulatory sandbox*. <https://www.mas.gov.sg/development/fintech/regulatory-sandbox>

⁴ Fintechnews Middle East. (2019, March 11). *UAE regulator initiatives to bring fintech to the next level*. <https://fintechnews.ae/3577/fintechdubai/uae-regulator-fintech-initiative-sandbox-cryptocurrency-ekyc-payments/>

⁵ Balzli, T. (2019, July 01). *FinTech license and sandbox — Adjustments to FINMA circulars 08/3 and 13/3*. *PwC Switzerland*. <https://www.pwc.ch/en/insights/regulation/Fintech-license-and-sandbox-adjustments.html>

⁶ Gnanasagaran, A. (2018, February 22). *Fintech sandboxes in Southeast Asia*. *The ASEAN Post*. <https://theaseanpost.com/article/fintech-sandboxes-southeast-asia>

⁷ Nabila, M. (2018, August 21). *OJK launches “OJK Infinity”, Digital Financial Innovation Center. Also releasing the latest regulation about Digital Financial Innovation (IKD)*. *DailySocial*. <https://dailysocial.id/post/ojk-launches-ojk-infinitydigital-financial-innovation-center>

⁸ The Astana Times. (2015, October 10). *Astana International Financial Centre to cement capital’s place in global finance*. <https://astanatimes.com/2015/10/astana-international-financial-centre-to-cement-capital-place-in-global-finance/>

⁹ Crane, J., Meyer, L. M., & Fife, E. A. (2018, June). *Thinking inside the sandbox: An Analysis of regulatory efforts to facilitate financial innovation*. *RegTechLab*. <https://www.regtechlab.io/report-thinking-inside-the-sandbox>

¹⁰ AFI. (2018, April 2). *Policy forum in Jordan: FinTech as a key catalyst for financial inclusion*. <https://www.afi-global.org/news/2018/04/policy-forum-jordan-fintech-key-catalyst-financial-inclusion>

¹¹ Massally, T. K., & Duff, S. (2018, May 15). *What can we learn from Sierra Leone’s new regulatory sandbox?* *CGAP*. <https://www.cgap.org/blog/what-can-we-learn-sierra-leones-new-regulatory-sandbox>

This mechanism is needed given the unpredictable consequences and risks herein, and is potentially useful for the business and social opportunities of using the testing technology or processes.

For instance, the state has some mandatory requirements for taxi drivers, including a daily medical checkup and a special type of driving license. These requirements cannot be applied for a drone taxi, which has no human driver within the car but may have a “driver” outside observing the entire processes. Prohibiting this type of taxi only on the basis of not corresponding to some mandatory requirements seems unreasonable, yet society may not be ready to prescribe this or that regulation for this type of taxi without research and testing. Both horns of this dilemma show the difficulties herein.

Under these circumstances, and due to the fact, that with no practical experience it is impossible to establish adequate regulation for most innovations, the government is seeking ways of how to try the new approaches without fundamental changes of legislation.

“Sandboxes” are the perfect mechanism for these purposes, since they are a framework (not typical for other companies beside the current participants) set up by a regulator (e.g. a Central Bank in Fintech area) that allows “innovators” to conduct “live” experiments in a controlled environment under a regulator’s supervision. In other words, this mechanism creates a controlled experiment, where the government and the participants are able to find the most balanced and fair legislation, minimizing the risks for public values and maximizing the positive effects.

Returning to the example of a drone taxi, the government may cancel some of the requirements and, at the same time, add other special requirements (e.g. for protecting pedestrians, for insuring liability including civil and criminal liability, for control of all drone taxis online, etc.) based on their risk analysis.

The metaphor of the “sandbox” is illustrative, as the entire experiment is limited to participants, technologies, applicable requirements, etc. Being under the supervision of the state, the “sandbox” may be converted on the basis of special regulations. Novel financial products, high technologies, and innovate business models or processes may be checked under a special set of norms, rules, and requirements, providing appropriate safeguards and protecting public interest.

This tool for the development of digital innovations is used in global practice (to a greater extent, it relates to the financial services market), and enables the reduction of the time and costs in introducing innovative products and improving the relevant regulatory legal framework. Due to the fact that, from time to time, current regulation does not fully consider new practices and use of new technologies, special legal regimes help to reduce legal uncertainty and legal risks for all participants.

In theory the idea is clear, but in practice there are many issues – tax policy, preventing of the risks for lives and health, the limits of converting the experimental regulation during the “sandbox” period, antitrust legislation, and so on.

Another issue is devoted to the areas of experimental regulation. Historically there was the only area – financial technologies (Bromberg et al., 2017). However, some countries extended the mechanism to digital innovations in general (Wechsler et al., 2018).

In fact, there is not a commonly accepted notion of “digital innovation”. This is another frequent issue, as whilst it is possible to outline the list of technologies that are novel and should have priority (e.g. big data, artificial intelligence) there are other technologies that cannot be considered novel but still are important for businesses and people yet simultaneously entail risk (e.g. city supervision systems, data bases of social services like the services of an operator of a postal service or telecom companies).

Typically, there are two approaches – limiting “sandboxes” to financial services, or providing a wider list of technologies that may be applicable for “sandboxes” in case of regulatory approval

(on the basis of discretionary powers). Historically and traditionally, the first approach is more applicable, but at the moment there are experiments with digital innovations in other areas (e.g. transport, medicine).

On the one hand, the COVID-19 pandemic may lead to the development of both digital innovation and “sandboxes”, as within the pandemic, digital technologies are becoming increasingly important in new areas of social life, the economy, the state, and municipal administration (Efremov & Yuzhakov, 2020). The experimental nature of their introduction in new areas should be guaranteed by (within reason) clear and flexible legislation.

On the other hand, there are doubts about the effectiveness of flexible norms for balancing public interests and business strategies (Zezsche et al., 2017).

The Russian approach is not typical, and may be helpful for other jurisdictions. However, in order to estimate the actual effectiveness of the regulation and practical results, we need to wait at least a couple of years after the enforcement of the law and “sandboxes” in practice.

The Russian Federation has no special law on “regulatory sandboxes” at the moment. Instead, there are two approaches towards legal experiments (not only in digital area).

The first approach entails accepting special regulation on various issues.

There are three recent examples of special laws — the Federal Law on the experiment to establish a special regulation in order to create the necessary conditions for the development and implementation of artificial intelligence technologies in Moscow¹²; the experiment in taxation for a special category of taxpayers (“professional income tax”)¹³; the experiment of the use of electronic documents in employment relationship management¹⁴.

Another option is to establish the experimental regulation by an Act of Government, if the legislation does not prohibit it. This option was used for experiments with labeling of certain categories of goods (perfume and toilet waters, footwear, clothes, tobacco products, etc.) with means of identification (by individual 2-D code for each item). Prior to the implementation of mandatory labelling in each category, under the decision of the Government, experiments were conducted for interested governmental, non-governmental, and business participants. There are a number of initiatives for experiments in different areas on the basis of bylaws.

The second approach is actively launching “sandboxes”. Following in the footsteps of British colleagues, in 2018 the Central Bank of the Russian Federation (subsequently — the Bank of Russia), within the framework of the implementation of the Basic Guidelines for Financial Technologies Development for the period 2018-2020, launched its own “sandboxes”¹⁵.

¹² Federal'nyy zakon № 123-FZ «O provedenii eksperimenta po ustanovleniyu spetsial'nogo regulirovaniya v tselyakh sozdaniya neobkhodimyykh usloviy dlya razrabotki i vnedreniya tekhnologiy is-kusstvennogo intellekta v sub'yekte Rossiyskoy Federatsii — gorode federal'nogo znacheniya Moskve i vnesenii izmeneniy v stat'i 6 i 10 Federal'nogo zakona “O personal'nykh dannykh”» [Federal Law No. 123-FZ “On conducting an experiment to establish a special regulation to create the necessary conditions for the development and implementation of artificial intelligence technology in the subject of the Russian Federation — the city of federal significance in Moscow and amending Articles 6 and 10 of the Federal Law “On Personal Data”] (2020).

¹³ Federal'nyy zakon № 422-FZ «O provedenii eksperimenta po ustanovleniyu spetsial'nogo nalogovogo rezhima “Nalog na professional'nyy dokhod”» [Federal Law No. 422-FZ “On conducting an experiment to establish a special tax regime “Tax on professional income”] (2018).

¹⁴ Federal'nyy zakon № 122-FZ «O provedenii eksperimenta po ispol'zovaniyu elektronnykh dokumentov, svyazannykh s rabotoy» [Federal Law No. 122-FZ “On conducting an experiment in the use of electronic documents related to work”] (2020).

¹⁵ Bank of Russia. (n.d.). Regulyativnaya «pesochnitsa» [Regulatory “sandbox”]. https://www.cbr.ru/fintech/regulatory_sandbox/

This mechanism provides an opportunity to pilot innovative financial technologies and services on the financial market. Priority areas for piloting, according to the Bank of Russia policy, are Big Data and machine learning technologies, mobile technologies, artificial intelligence, biometric technologies, distributed registry technologies, open interfaces, digital profile technologies, and others. Any organization that has developed or plans to use an innovative financial service or technology can initiate piloting in a “sandbox”.

The main problem of this initiative is the absence of any legal background, which leads to limited opportunities of potential participants. In fact, a participant’s most fruitful opportunity is to create a model of whichever process they prioritize, and to convince the regulator that it is safe and not risky from the perspective of protecting important public values. The regulator is able to initiate changes in legislation, but this process takes much time. This type of “sandbox” is not flexible and risky, since the opportunity of launching “live” experiments is not available.

Unfortunately, the Bank of Russia does not post official information about the number of applications, decisions on them, and results of proposed “sandboxes”. However, in February 2019, the Bank of Russia announced that the first project from the “sandbox” received legal approval. According to their official website, work on the project, which deals with the service that allows remote management of corporate client accounts for transactions in bank branches, began at least in August 2018. Sberbank (the largest bank in Russia, Central and Eastern Europe) was the initiator of this project. The testing was conducted jointly with professional associations of financial market participants and relevant government agencies. The Bank of Russia, as well as experts, found it expedient to launch the service taking into account recommendations provided by the regulator¹⁶.

This case demonstrates the potential mechanism, but there are at least two specific details. First, there was not any testing in real life, but only modeling by experts and agencies, so there remain potential risks in real life conditions that cannot be forecasted within the model. Second, the Bank of Russia found the service does not require amendments to legislation – it was legalized by a bylaw.

According to mass media there are about 20 applications for the Bank of Russia’s “sandbox”, but the official statistics is not available.

This “theoretical” option is only for banks and other financial institutions that are supervised by the Bank of Russia. The same option is not available for other companies and other services.

Within the framework of the Digital Economy National Program¹⁷, the Government of the Russian Federation mandated the Ministry of Economic Development to establish “legislative regulation of the creation and functioning of special legal regimes in the digital economy (“regulatory sandboxes”)” by the end of July 2019.

With the short delay, in March 2020, Russian Ministry of Economic Development prepared a draft, agreed upon by all relevant federal executive agencies, of the Federal Law “On experimental legal regimes in the area of digital innovations in the Russian Federation”¹⁸; now this has been proposed by the Government to the State Duma, it may finally be approved by the end of the year.

¹⁶ Sberbank. (2018, August 17). *Sberbank’s service is first to pass piloting of Bank of Russia’s regulatory sandbox*. <https://www.banki.ru/news/lenta/?id=10619991>

¹⁷ The Digital Economy National Program is aimed at creating a safe and powerful infrastructure for high-speed data transfer, processing, and storage, which will be made available for all organizations and households of Russia. One of the focus areas of the project is developing an up-to-date legal regulation, which involves creating favorable competitive conditions for the participants of the digital environment and introducing uniform requirements for electronic operations (Hohlov & Ershova, 2019).

¹⁸ The draft of the Federal Law is available in Russian on the official website of the State Duma of the Federal Assembly of the Russian Federation. <https://sozd.duma.gov.ru/bill/922869-7>

However, the draft requires a satellite law with the details in relevant legislation (18 laws that should be amended are in the list of the Government), but this draft has not been prepared on time due to arguments within the federal agencies.

The key idea of the suggested regulation is pretty close to typical models considered above, and is under development within the experimental area, through which it will be able to do what is not quite allowed yet. If the experiment is successful, this regime will become the prototype of the new regulation across assorted areas of using digital innovation.

According to the draft, “regulatory sandboxes” will work in eight areas:

- 1) medical practice, including telemedicine technologies, technologies for the collection and processing of information on citizens' health and diagnoses, pharmaceutical practice;
- 2) design, manufacture, and operation of vehicles, including highly automated vehicles and unmanned aerial vehicles, certification of their operators, provision of transportation and logistics services, and the organization of transportation services;
- 3) e-learning and distance learning technologies;
- 4) financial markets;
- 5) remote sale of goods, works, and services;
- 6) architectural engineering, construction, major repair, reconstruction, demolition of capital construction objects, operation of buildings and structures;
- 7) state and municipal services providing and executing state control and municipal control;
- 8) industry.

The legal experiment is supposed to be extended to systems based on digital innovations, including Big Data, blockchain, neurotechnology and artificial intelligence, quantum technologies, robotics, etc. However, the draft does not have the list of technologies — it uses the term “digital innovation” in its broader meaning (a new or highly improved product).

In order to legalize special bylaw norms that overrule legislation for “sandboxes”, the draft operates with two notions — general regulation (for all entities) and special regulation (for the participants of a “sandbox” for the limited period of an experiment).

Surprisingly, the list of participants consists of not only legal entities and entrepreneurs, but also of governmental (federal and regional) bodies, municipal bodies (for monitoring and oversight activities), and state and municipal services. This provision seems illogical, as in this area the state is able to make such legislation flexible.

The key idea of the draft is to create a procedure for developing the special (experimental) regulation of up to three years for participants in using different digital innovation and connected processes.

As oppose to the Republic of Kazakhstan, where the special regulation works only within the Astana International Financial Center¹⁹, the Russian legislator does not draw the limits for territory²⁰ — “sandboxes” may work within the municipality, the region, or nationwide.

¹⁹ According to the Constitutional Law of the Republic of Kazakhstan of December 7, 2015 No. 438-V “On International Financial Center Astana” (as amended and supplemented as of 30.12.2019), the hierarchy of norms within the Centre consists of three levels — the present Constitutional Law; acts of the Centre that are not contradicting the Constitutional Law, which may be based on the principles, norms, and precedents of the law of England and Wales and (or) standards of the leading world financial centers, accepted by the Centre’s bodies within the limits of powers provided by the present Constitutional Law; and the current legislation of the Republic of Kazakhstan, which is applied in the part not regulated by this Constitutional Law and Acts of the Centre.

²⁰ There is a special regulation of the Innovation Centre “Skolkovo”, but this example is unique. See: Federal’nyy zakon № 2 44-FZ «Ob innovatsionnom tsentre “Skolkovo”» [Federal Law No. 244-FZ “On Innovation Centre “Skolkovo”] (2010).

The draft creates a procedural mechanism for setting up, changing, cancelling, and monitoring “sandboxes”. Under this mechanism, upon the application of an initiator or the request of the regulator (e.g. the Ministry of Digital Development, Communications and Mass Media of the Russian Federation for telecommunication or postal services), the government and business community organizations will be able to estimate the initiative and suggestions for the special regulation, and decide whether this regulation may be settled.

The initiator should provide the draft of the “sandbox” Program complete with an analysis of the risks, specific regulatory problems, and gaps that are considered to be boundaries for the implementation of the digital innovation with no special regulation.

The final decision on the application or request is made by the Government of the Russian Federation (of the Bank of Russia for its area of regulation) after the approval of two federal executive bodies (the regulator and “the designed in experimental legal regime” body) and a business community organization in the area of the experiment.

The procedural mechanism is clear and pretty democratic: it offers the opportunity to settle disputes and other disagreements, but the grounds of these decisions, as well as the authorities, are not transparent.

It is not obvious whether a business community organization is the only organization for all “sandboxes” or not; the criteria for this organization are not mentioned, and nor is the procedure of nominating whichever organization is chosen.

As the draft of the law declares, “sandboxes” will make it possible to check how a new technological solution works in real life within the special regulation, as well as to determine whether its universal use is acceptable and what requirements should be set when implementing it. The experiment includes assorted specific exemptions from mandatory requirements or special requirements for the participants of the “sandbox”, in cases where there is a gap in regulation. The experiment may require the special incurrance of liability, but it is not mandatory. These exemptions, however, must not limit the level of protection of the rights and freedoms of citizens, state security, and other important constitutional values.

Reduction of terms helps to both reduce costs and replicate new solutions. Moreover, it allows quickly sifting out failing business models.

According to the results of the experiment, the new regulation of innovation areas is formed by the regulatory bodies if the “sandbox” is successful.

However, the detailed prescriptions about the requirements to these special regulations are going to be determined in relevant legislation (e.g. medical law for telemedicine services; transport law for drone taxis).

The advantage of suggested regulation is in the creation of the unified universal mechanism for “sandboxes” in all areas, and in detailed procedures with limited terms, authorities, and methods of decisions for each stage of approval. Moreover, this system is flexible enough, and not limited to financial services.

Meanwhile, the suggested mechanism has disadvantages and weaknesses that should be considered.

There is also a theoretical issue – how to protect public order if the executive bodies are able to postpone (or even cancel) laws for the list of entities. The rule of law guarantees that legislation cannot be overruled by bylaws. However, it is important to remember the concept of “delegated legislation”²¹ – this theoretical challenge may be easily solved by special law on “sandboxes”.

²¹ With regional specific, this notion may be defined as the mechanism of delegation by the parliamentary authorities to executive bodies on the basis of legal provisions and within the framework of these provisions.

There are also practical issues that are important in the draft of federal law; three of these are the most urgent for consideration:

1) Firstly, the proposed mechanism contains multiple corruption risks at all stages, as there are no criteria for decision-making. All discretionary powers have no limits and/or adequate criteria for any decisions they may make. In fact, this is not a big problem, but the absence of an effective and fast judicial review gives the authorities unlimited power for the purposes of the application processing. In theory the standard judicial mechanism is undoubtedly still available, but this may work only in cases of procedural major violations that are significant enough. However, the grounds of decisions are closed and their publication is not mandatory; this leads to no judicial review being conducted of them. Another point is the grounds for choosing the “business community organization”, as designed for the purposes of “sandboxes” processing.

2) Secondly, there are risks of unfair components and restricted commercial data disclosure during the application processing. Almost each digital innovation deals with new business processes and ideas that should not be disclosed. Another point is about the potential conflicts of interests of competing companies, and the opportunity to protect corporative interests only. The same problem is possible for startups and small companies with no representation in “a business community organization”. In practice (even with at least three bodies at the first stage), “sandbox” processing may be used as a way of competence at whichever market companies see as fit. The absence of a predictable level of protection of interests is a significant gap in the draft for initiators and their commercial data. According to the previous version of the draft of the law, the Federal Antimonopoly Service opinion was mandatory; this provision however was not included in the final governmental draft.

3) Thirdly, business models are connected with other regulatory factors like taxation, licensing, and similar fields. Changing of legislation that affects the “sandbox” leads to the cancellation of it, according to the provisions of the draft of the Federal Law. On the one hand, this refers to the sovereignty of parliament and the law as the highest level of regulation. On the other hand, if the law comes into force, parliament will give the “mandate” to the Government or the Bank of Russia to exempt regulation for the limited period of time and limited list of participants. The previous version of the draft has the provision that the tax burden for participants of sandboxes cannot grow during the experiment; the current draft does not have this provision.

However, it looks like the Government does not plan to take “sandboxes” into force soon. Neither a draft of satellite law is ready, nor have the plans for preparing the draft for the second hearing at the State Duma been announced.

There is an idea to hold an experiment on settling “sandboxes” before or alongside changing the regulation. On June 16 2020, it was announced that the Ministry of Economic Development prepared the list of the projects that they are going to test as “sandboxes”²².

There are six initiatives in this list, including: the service to protect subscribers from fraudulent calls based on Big Data and machine learning (the main regulatory issue is in the special regime of call data); remote signing a cellular service agreement with no necessity to visit the office of the operator (there are regulatory gaps in the legislation on communication as well as counter-terrorism provisions); “smart hotels” with automatic check-in; cargo transportation with drones; autonomous driving system with drones (with no engineers operating the system); medical care services through telemedicine (there is a provision that requires the first offline doctor’s appointment).

²² Vinogradova, E. (2020, June 16). Eksperimental'no, Vatson: Minek uzakonit antifrod-servisy v «pesochnitsakh» [Experimentally, Watson: Ministry of Economic Development will legitimize antifraud services in “sandboxes”]. Izvestia. <https://iz.ru/1023765/ekaterina-vinogradova/eksperimentalno-vatson-minek-uzakonit-antifrod-servisy-v-pesochnitsakh>

On June 16 2020, the draft of satellite law was published for the purposes of independent anti-corruption expertise²³, but it is not final draft.

Unfortunately, the draft provides tailored solutions as it consists of the closed list of mandatory and other requirements that may be limited, cancelled, or modified within a “sandbox”. This draft includes pretty brief regulations with amendments to 8 laws (in the areas mentioned above)²⁴ with the lists of articles and provisions “which apply unless otherwise provided” by a “sandbox”.

The analyzed Russian approaches are illustrative and may be helpful for other jurisdictions, especially for developing countries that do not have the analogue experience.

The idea of “sandboxes” has already been added to by the new direction of regulatory development, which may be considered as “smart regulation” (Hohlov & Ershova, 2019), but these concepts are not competing — both of these institutions may be used simultaneously.

Moreover, if the regulation is rigid and not flexible enough (as is pretty typical for most post-Soviet countries, as well as a number of developing countries), “sandboxes” will help to improve legislation after testing all processes and requirements in real-life circumstances to facilitate the intensive and effective development of digital technologies and innovations.

The provisions of the suggested regulation may be changed dramatically during hearings in the Federal Assembly of the Russian Federation, but it is best to hope that the key ideas and approaches will be included in the law.

Time will tell how effective and appropriate this universal mechanism of “sandboxes” is to the reality of life and law in Russia.

²³ The draft available in Russian at the official web-site: <https://regulation.gov.ru/projects#npa=102951>

²⁴ Before, the Government of the Russian Federation outlined 18 federal laws to be amended.

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Information about the author:

Damir R. Salikhov — Ph.D. in Law, Teaching Assistant of the Chair of Constitutional and Municipal Law of Lomonosov Moscow State University, Faculty of law, Moscow, Russia.

d_salihov@law.msu.ru

Сведения об авторе:

Салихов Д.Р. — кандидат юридических наук, ассистент кафедры конституционного и муниципального права Юридического факультета Московского государственного университета имени М.В. Ломоносова, Москва, Россия.

d_salihov@law.msu.ru