REGULAMENTO (UE) N.º 650/2012 DO PARLAMENTO EUROPEU E DO CONSELHO

de 4 de julho de 2012

relativo à competência, à lei aplicável, ao reconhecimento e execução das decisões, e à aceitação e execução dos atos autênticos em matéria de sucessões e à criação de um Certificado Sucessório Europeu

O PARLAMENTO EUROPEU E O CONSELHO DA UNIÃO EUROPEIA.

Tendo em conta o Tratado sobre o Funcionamento da União Europeia, nomeadamente o artigo \$1,º, n.º 2.

Tendo em conta a proposta da Comissão Europeia,

PI

Tendo em conta o parecer do Comité Económico e Social Europeu (¹),

Deliberando de acordo com o processo legislativo ordinário (1),

Considerando o seguinte:

- (1) A União fixou o objetivo de manter e desenvolver um espaço de liberdade, de segurança e de justiça em que seja assegurada a livre circulação das pessoas. A fim de criar gradualmente esse espaço, a União deverá adotar medidas no domínio da cooperação judiciária em matéria civil que tenham incidência transfronteiriça, em particular quando tal for necessário ao bom funcionamento do mercado interno.
- (2) Nos termos do artigo 81.º, n.º 2, alinea e), do Tratado sobre o Funcionamento da União Europeia, essas medidas visam assegurar a compatibilidade das normas aplicáveis nos Estados-Membros em matéria de conflitos de leis e de jurisdição.
- (3) O Conselho Europeu, reunido em Tampere em 15 e 16 de outubro de 1999, aprovou o principio do reconhecimento mútuo das sentenças e outras decisões das autoridades judiciais enquanto pedra angular da cooperação judiciária em matéria civil e solicitou ao Conselho e à Comissão que adotassem um programa de medidas destinadas a aplicar o referido princípio.
- (1) JO C 44 de 11.2.2011, p. 148.
- (º) Posição do Parlamento Europeu de 13 de março de 2012 (ainda não publicada no Jornal Oficial) e decisão do Conselho de 7 de junho de 2012.

- Em 30 de novembro de 2000, foi adotado um programa de medidas destinadas a aplicar o princípio do reconhecimento mútuo das decisões em matéria civil e comercial (?), comum à Comissão e ao Conselho. Esse programa descreve as medidas de harmonização das normas de conflitos de leis como medidas destinadas a facilitar o reconhecimento mútuo das decisões judiciais, e prevê a elaboração de um instrumento relativo aos testamentos e sucessões.
- (5) O Conselho Europeu, reunido em Bruxelas em 4 e 5 de novembro de 2004, aprovou um novo programa intitulado «Programa da Haia: reforço da liberdade, da segurança e da justiça na União Europeia» (§). Esse programa sublinha a necessidade de adotar um diploma legal em matéria de sucessões que trate, nomeadamente, da questão dos conflitos de leis, da competência judiciária, do reconhecimento mútuo e da execução de decisões neste dominio e do certificado sucessório europeu.
- (6) Na sua reunião em Bruxelas, de 10 e 11 de dezembro de 2009, o Conselho Europeu, aprovou um novo programa plurianual, intitulado «Programa de Estocolmo — Uma Europa aberta e segura que sirva e proteja os cidadãos» (*). Nesse programa, o Conselho Europeu considera que o reconhecimento mútuo deverá ser alargado a novas matérias ainda não abrangidas, mas essenciais para a vida quotidiana, tais como as sucessões e os testamentos, tendo sempre em consideração os sistemas jurídicos, incluindo a ordem pública e as tradições nacionais neste dominio.
- (7) É conveniente facilitar o bom funcionamento do mercado interno suprimindo os entraves à livee circulação de pessoas que atualmente se defrontam com dificuldades para excreerem os seus direitos no âmbito de uma sucessão com incidência transfronteiriça. No espaço europeu de justiça, os cidadãos deverm ter a possebilidade de organizar antecipadamente a sua sucessão. É necessário garantir eficarmente os direitos dos herdeiros e dos legatários, das outras pessoas próximas do falecido, bem como dos credores da sucessão.
- (8) Para alcançar aqueles objetivos, o presente regulamento deverá agrupar as disposições sobre a competência judicidiria, a lei aplicável, o recombecimento ou, consoante o caso, a aceitação, a executoriedade e a execução das decisões, dos atos autênticos e das transações judiciais, bem como sobre a criação do certificado sucessório europeu.

⁽f) JO C 12 de 15.1.2001, p. 1.

⁽⁵⁾ JO C 53 de 3.3.2005, p. 1.

^(*) JO C 115 de 4.5.2010, p. 1.

Soho Ed 147 Julho De 2012

Michael Rajnik

Soho Ed 147 Julho De 2012:

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