

Abstract

This thesis deals with a description and analysis of the EU law and policy on Schengen visas. The EU visa policy is analysed in its historical development and its place in the framework of Schengen *acquis*. Separately, important visa policy measures are analysed including the typology of visas, exceptions from visa obligation, visa reciprocity, visa facilitation and processes of visa liberalisation. Different phases of the visa procedure are studied with focus on the questions whether there is a right to be issued a Schengen visa when the conditions are met and the right of appeal. The relevant legislation subject to analysis is above all the Visa Code, the regulation on visa lists and the relevant jurisprudence of the Court of Justice. By way of illustration, the implementation in the Czech legal order is used and jurisprudence of the Czech higher courts is quoted to show to what extent the EU visa procedure and visa refusal matches the requirements of the administrative law theory on the administrative procedure and decision in general. The relevant rules are assessed as to the extent they match with principles of legitimacy, influence of legal certainty, effectiveness and proportionality. The core of the work is a hypothesis that current EU visa rules do not establish a right to a visa when the conditions are met, neither the judicial review is necessary in case of visa refusal. Applicant has no right to a visa. He/she must only be guaranteed a fair process aiming to issuance or not of a visa. Not even the exhaustive list of refusal reasons implies the constitution of a right to a visa because some of the refusal reasons are so general, wide and subjective that basically any thinkable legitimate refusal reason can be attributed to them. Such a wide discretion does not correspond to a notion of right.

Keywords: short-term visa, Schengen, right to a visa, right of appeal, Visa code, visa reciprocity, visa liberalisation, visa facilitation, visa policy, EU, fair trial.