

## Case C-274/12P Telefónica SA v European Commission [2013]

**Facts:** The applicant purchased shares in companies in the Czech Republic and the UK under a scheme aimed at foreign companies in Spain. The applicant then sought to annul a decision of the Commission directed at the Spanish Government which had said the scheme constituted state aid and was therefore contrary to the Treaty. The Commission considered this to be inadmissible because the applicant was not individually concerned.

**Held:** The phrase ‘must not entail implementing measures’ ought to be interpreted narrowly. The absence of implementing measures means the absence of any measure which needs to be taken by the addressee of the measure to enact the operation. As such, what was required was the absence of any measure that was capable of generating specific consequences for the applicant. This could not, contrary to the applicant's contention, include any measure, however minor, as this would automatically exclude a wide variety of regulatory acts which would contradict the objective pursued by the EU legislature. Where a regulatory act entails implementing measures, the judicial review of adherence to EU law is ensured. Regardless of whether the measures are adopted at the EU-level or the Member State-level, natural or legal persons are protected by the ability to challenge the implementing measures which the act entails.

While the decision was incompatible with the common market, a need for administrative documents had defined specific consequences, and so the applicant could only challenge those measures before national courts.