

European Union

“Austro-Mechana v. Strato”

Decision of the European Court of Justice (Second Chamber)

24 March 2022 – Case No. C-433/20

*Austro-Mechana Gesellschaft zur Wahrnehmung
mechanisch-musikalischer Urheberrechte Gesellschaft
mbH v. Strato AG*

Directive 2001/29/EC, Arts. 2, 5(2)(b)

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Keywords Private copying exception · Reproduction · Fair compensation · Cloud computing services · Private copying levy · Any medium · Private use

1. Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society must be interpreted as meaning that the expression ‘reproductions on any medium’, referred to in that provision, covers the saving, for private purposes, of copies of works protected by copyright on a server in which storage space is made available to a user by the provider of a cloud computing service.
2. Article 5(2)(b) of Directive 2001/29 must be interpreted as not precluding national legislation that has transposed the exception referred to in that provision and that does not make the providers of storage services in the context of cloud computing subject to the payment of fair compensation in respect of the unauthorised saving of copies of copyright-protected works by natural persons, who are users of those services, for private use and for ends that are neither directly nor indirectly commercial, in so far as that legislation provides for the payment of fair compensation to the rightholders.

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