

## Criminal Code of Austria (excerpts)

### Aggravating circumstances

#### § 33 (1) fig. 5 StGB – Special aggravating factors

(FLG 1974/60, last amended by FLG I 2011/103)

(1) It especially is an aggravating factor, if the perpetrator

1. committed several punishable acts of the same or of different kinds, or if he/she continued to commit the punishable act over a longer period of time;
2. had already been convicted of an offence based on the same harmful disposition;
3. induced another person to commit a punishable act;
4. was the author or instigator of one of several committed punishable acts or played a leading role in the commitment of such an act;
5. **acted out of racist, xenophobic or other motives considered particularly condemnable;**
6. acted in an insidious or cruel way, or in a way torturous for the victim;
7. was taking advantage of the defencelessness and helplessness of another person when committing the crime.

(2) It is also an aggravating factor apart from the cases listed § 39a (1), if a perpetrator full of age committed the act by the use of force or dangerous threat against a minor.

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### Incitement to violence

#### § 283 StGB (Penal Code) – incitement to hatred and violence

(FLG 1974/60, last amended by FLG I 2011/103)

(1) Who publicly in a manner suited to jeopardise public order, or in a manner perceivable to the general public **incites or instigates to violence against a church or religious denomination or any other group of persons defined by criteria of race, colour of skin, language, religion or ideology, nationality, descent or national or ethnic origin, sex, a disability, age or sexual orientation** or a member of such a group, explicitly on account of his/her belonging to such a group, shall be punished with imprisonment of up to two years.

(2) Likewise, a person shall be punished, if he/she in a manner perceivable to the general public, stirs up hatred against one of the groups defined in para 1 or who verbally harasses such groups in a manner violating their human dignity and who thereby seeks to decry them.