



The Greenwood Encyclopedia of

# LGBT ISSUES WORLDWIDE

*Edited by Chuck Stewart*

THE GREENWOOD ENCYCLOPEDIA OF  
**LGBT Issues**  
WORLDWIDE

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**VOLUME 2**

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Edited by  
**Chuck Stewart**

**GREENWOOD PRESS**  
*An Imprint of ABC-CLIO, LLC*

A B C  C L I O

Santa Barbara, California • Denver, Colorado • Oxford, England

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### **Library of Congress Cataloging-in-Publication Data**

The Greenwood encyclopedia of LGBT issues worldwide /  
edited by Chuck Stewart.

p. cm.

Includes bibliographical references and index.

ISBN 978-0-313-34231-8 (set hard copy : alk. paper) — ISBN 978-0-313-34233-2  
(vol 1 hard copy : alk. paper) — ISBN 978-0-313-34235-6 (vol 2 hard copy : alk. paper) —  
ISBN 978-0-313-34237-0 (vol 3 hard copy : alk. paper) — ISBN 978-0-313-34232-5  
(set ebook) — ISBN 978-0-313-34234-9 (vol 1 ebook) — ISBN 978-0-313-34236-3  
(vol 2 ebook) — ISBN 978-0-313-34238-7 (vol 3 ebook)

1. Homosexuality—History—Encyclopedias. 2. Gays—History—Encyclopedias.  
3. Bisexuals—History—Encyclopedias. 4. Transgender people—History—  
Encyclopedias. I. Stewart, Chuck, 1951– II. Title: Greenwood encyclopedia of  
lesbian, gay, bisexual, and transgender issues.

HQ76.G724 2010

306.76'609—dc22

2009027698

ISBN: 978-0-313-34231-8


EISBN: 978-0-313-34232-5

14 13 12 11 10 1 2 3 4 5

This book is also available on the World Wide Web as an eBook.  
Visit [www.abc-clio.com](http://www.abc-clio.com) for details.

Greenwood Press  
An Imprint of ABC-CLIO, LLC

ABC-CLIO, LLC  
130 Cremona Drive, P.O. Box 1911  
Santa Barbara, California 93116-1911

This book is printed on acid-free paper 

Manufactured in the United States of America

*Cartography by Bookcomp, Inc.*

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# PORTUGAL

*Ana Cristina Santos*

## OVERVIEW

Portugal is a southern Mediterranean country with a population of approximately 10.5 million (51.8% women). Life expectancy is 81.4 years for women and 74.9 for men. With a total area of 35,580 square miles, its territory is divided into 18 districts on the mainland and the two autonomous regions of Azores and Madeira. The capital city is Lisbon.

Portugal had the longest dictatorship in western Europe (1926–1974). From 1933 until 1968, António de Oliveira Salazar, a conservative and Catholic, led the country. During this period, sexual and reproductive rights were disregarded (e.g., abortion and divorce were forbidden, and homosexuality was criminalized). The right-wing regime was overturned by a military coup in 1974, which became known worldwide as the Revolution of Carnations. The red carnation is still a national symbol of democracy, and the revolution is celebrated on April 25th (a national holiday). After 1974, Portugal's former colonies in Africa (Angola, Cape Verde, Guinea-Bissau, Mozambique, São Tomé, and Príncipe) gained independence.

The political system in Portugal is a parliamentary democracy and governments have shifted between two major political parties: the Democrat Social Party (PSD) and the Socialist Party (PS). Portugal has been a member of the Council of Europe since 1976 and became a European Union (EU) member in 1986. The euro currency replaced the *escudo* in 2002.



## OVERVIEW OF LGBT ISSUES

There is no antidiscrimination law as such, but discriminating based on sexual orientation is prohibited by the constitution. This constitutional ban exists parallel to other pieces of legislation that still reinforce difference and discrimination: same-sex civil marriage is illegal, same-sex couples cannot adopt children, and only married women or women in a heterosexual *de facto* union can have access to assisted conception. Same-sex civil marriage is the most controversial issue, but also the one that has gathered more public support as well as activist initiatives.

The LGBT movement is very active and successful in pushing for legal reform, and therefore there is a social expectation that all discriminatory laws will change in the near future, similar to what happened in Spain. Moreover, since 2007, the ages of consent have been equalized and hate crimes based on sexual orientation have been included among the aggravating grounds in the revised penal code. Both of these were long-term demands of the LGBT movement. Therefore, Portugal constitutes an example of the potential of social movements in generating political, legal, and social change in the sphere of LGBT issues.

## EDUCATION

In 2001, 10 percent of the population could not read or write. In the 2004–2005 academic year, the total number of individuals with a university degree was over 70,000, of which 65 percent were female.

Concerning LGBT issues, sex education is one of the most debated issues. In 1984, after a period of social and political debate, the parliament passed a law on sex education (law 3/84). However, the specific regulations that would determine how the law would come into force were never established, and therefore law 3/84 was never fully applied. In September 2007, the final report of the state Working Group on Sex Education was launched, suggesting that schools should implement sex education. In this report, the link between sex education and health and biology was reinforced, with very little being said about preventing discrimination and combating bullying.

There are LGBT organizations doing youth work, namely facilitating discussions with students and teachers. The youth organization *rede ex aequo* is the most active in the field of education, setting up workshops and publishing specific materials. However, there is no regularity in these activities and therefore no guarantee that the educational system will consistently and formally address issues of sexual orientation and gender identity.

## EMPLOYMENT AND ECONOMICS

In 2005, the activity rate (percentage of people over 15 years old, both employed and unemployed, compared to the overall population) was 52.5 percent. The unemployment rate hit 7.6 percent, being more prominent among women (8.7% against 6.7% among men) and among the age group of 15–24 years old.<sup>1</sup>

Many stories of discrimination in employment against LGBT employees have been reported over the years by LGBT organizations and the media. However, to date there have been no formal complaints in the courts on these matters. Such

absence of formal complaints is justified to a great extent by fear of an unwanted coming out or a general lack of confidence in the national judicial system.

In 2003, the new labor code came into force, responding to EU demands to include directive 2000/78/CE into national legislation. Clearly stating that no employee should be discriminated against based on sexual orientation, the labor code became the first piece of national legislation mentioning sexual orientation. It also changed the rules concerning pressing charges based on discrimination; before the labor code, the burden was on the employees to prove they had been discriminated against, whereas after 2003 it is the employer who needs to prove the company has not discriminated against the person pressing charges.

### **SOCIAL/GOVERNMENT PROGRAMS**

Drawing on EU policies, the language of equality and nondiscrimination gradually became part of the political ideology aiming to transform Portugal into a modern state in the eyes of its counterparts. Signing the Amsterdam Treaty in June 1997, Portugal became symbolically obliged to enforce the principle of non-discrimination, which mainly targeted gender equality. As a result, the Portuguese government started to invest resources in preparing experts in the field of equality and nondiscrimination between women and men, namely by subsidizing training courses, the first of which took place in 2001. Nonetheless, there are no state-funded social programs targeting the LGBT population or specifically addressing issues of sexual orientation or gender identity.

In terms of social attitudes, there has been some change. Today, the Portuguese people recognize that current discrimination based on sexual orientation is more widespread than it was five years ago (45%, compared to the average of 31% in the rest of the EU), as it is also more widespread today in terms of gender (41%, compared to the EU average of 27%).<sup>2</sup> These figures represent a move away from data collected by a study in 1998, according to which 48.5 percent of the respondents believed sexual relationships should only be allowed between men and women.<sup>3</sup>

### **SEXUALITY/SEXUAL PRACTICES**

The Portuguese penal code reform of 1982 decriminalized sexual acts practiced in private by consenting adults. These included adultery, incest, prostitution, and homosexuality, which had figured in previous penal codes as crimes against decency or crimes against custom.

In terms of sexual practices, according to a survey by Eurosondagem in 2005,<sup>4</sup> 52.2 percent of interviewees said AIDS did not affect their sexual activity. 60.2 percent of all women interviewed and 44 percent of all men admitted they never changed their behavior in order to prevent AIDS. One-third never used condoms (33.5%) and 28.8 percent used condoms only on certain occasions. Concerning sexual orientation, 1 in 10 Portuguese identify themselves as gay/lesbian (7%) or bisexual (2.9%). Half the interviewees had come out as gay/lesbian (50.8%) and the vast majority of bisexuals were still in the closet (85.7%). Nearly half of gay/lesbian interviewees had a stable partner (49%), whereas that number decreased to 33.3 percent in the case of bisexuals and increased to 72.3 percent in the case of heterosexuals.

## FAMILY

Compared to the 1991 census, in 2001 there were more married people with no children (30.9%, compared to 28.8% in 1991), single parents (11.5% compared to 9.2%), and lone mothers (10% compared to 7.9%). In contrast, there was a decrease in the percentage of married people with children (56.7% compared to 60.9%). The percentage of families of grandparents with grandchildren is very low (0.5%).<sup>5</sup> In 2005, the marriage rate was 4.6 per 1,000 habitants and the divorce rate was 2.1 per 1,000 habitants. The average age for getting married is 31.3 for males and 28.9 for females, and the average age for getting divorced is 39.8 years old.<sup>6</sup> There is no statistical information about same-sex families.

Marriage is defined in the Family Law, which is included in the civil code. According to this law, marriage is a “contract between two different-sex people who wish to start a family in a full sharing of life” (article 1577). The same code also states that a marriage between two same-sex persons is legally nonexistent (article 1628). Faced with this obstacle, for a long period of time family related LGBT claims focused on the recognition of same-sex cohabitation. This was achieved in 2001, with the approval of a *de facto* union law that does not discriminate based on sexual orientation.

According to the 2001 census, between 1991 and 2001 there was an increase of 96.1 percent in cohabitation (“marriage without registration”), with 194,000 people living in a *de facto* union relationship in 1991 increasing to 381,000 in 2001. However, because this law included both same-sex and different-sex couples, there is no specific information about same-sex cohabitation.

Since 2005, the major banner of the LGBT movement in Portugal is the right to same-sex civil marriage. This claim leads a series of other family related demands, such as specific regulation for the *de facto* union law, recognition of same-sex adoption, and access to assisted conception techniques for lesbian women.

## COMMUNITY

The first Portuguese LGBT organization emerged in 1991. Since then, several other groups emerged in the country, most of them in Lisbon. Today, there are 10 LGBT organizations, some of which have subgroups and satellites in other regions of the country. Most organizations are self-identified as LGBT. There are only three exceptions to this, which consist of more specific targeted organizations: Clube Safo (lesbian-oriented), Ponto Bi (bisexual-oriented), and AT (transgender-oriented). Organizations play an important role in social visibility and political struggle, not only in the field of LGBT rights but also in the field of women’s rights. Pride (locally called *Arraial* and consisting of a festival that has followed the LGBT march since 2000) has been celebrated since 1997. In 2000, there was the first LGBT march in Lisbon, which attracted more than 500 people. These numbers have increased over time—up to 3,500 people in more recent parades. Other important initiatives include Porto Pride and the LGBT March of Porto, both taking place in the north after 2001 and 2006, respectively.

LGBT community services are scarce. There is an online publisher (Zayas), bookshop (Esquina Cor de Rosa), travel agency (Saga Escape), magazine (*Korpus*), radio show (*Vidas Alternativas*), and a few bars, hotels, and clubs.<sup>7</sup> These are mostly situated in the two main cities, Lisbon and Porto.

## HEALTH

Portugal has the second highest rate of teenage pregnancy in Europe, with an estimated average of 6,000 a year. Preventing teenage pregnancy is considered a priority by family planning and reproductive health services, and there are free contraceptives available to everyone, regardless of age, in health centers. Since 2007, abortion is also available upon request to women who are up to 10 weeks pregnant.

Until 1995, sex reassignment surgery was forbidden by the Portuguese Deontological Medical Code. In May 1995, a resolution of the Medical Council determined that sex reassignment could be possible in cases of transsexuality or gender dysphoria. The criteria include being over 18 years old and not being previously married. The process is long, requiring several doctors' authorizations and a two-year period on hormones before surgery can be done. Surgeries concerning breasts (mastectomy or enlargement) and genitals are paid for by the National Health System, which, however, does not pay for other aesthetic procedures, like hair or Adam's apple removal. The transgender community has several claims in this respect, some of which relate to a call for a gender recognition law and freedom from compulsory psychiatric dependency.

HIV and AIDS in Portugal are mostly found among drug users (47.5%) and heterosexual people (34.4%). Homosexual and bisexual people corresponded to 12.9 percent of all cases of HIV and AIDS between 1983 and 2007. Despite these figures, HIV organizations played a key role as embryos for LGBT visibility in Portugal. In fact, many LGBT activists were first drawn into activism through HIV-related campaigning.<sup>8</sup>

## POLITICS AND LAW

Homosexuality was decriminalized in 1982, eight years after the democratic revolution. Cohabitation has been legally recognized for opposite-sex couples since 2000 and for lesbian and gay couples since 2001, but this law does not include the same rights ascribed to straight couples such as adopting children.

On April 22, 2004, Portugal became the first European country and the fourth worldwide to include sexual orientation among the unacceptable reasons for prejudicial treatment (article 13) in the constitution. However, there is still discrimination in the law (e.g., adoption and same-sex civil marriage). Furthermore, in 2006, the parliament approved a law on assisted conception that granted exclusive access to married women or women in a heterosexual *de facto* union, thus excluding lesbian women from accessing assisted conception techniques. Until the revision of the penal code in 2007, there were still different ages of consent (14 for heterosexual relations and 16 for same-sex relations). Finally, there is no specific law protecting transgender people from discrimination, as gender identity is not mentioned among the unacceptable reasons for prejudicial treatment, and there is no gender recognition law such as exists in the UK (2004) or Spain (2007).

Few court cases have addressed LGBT rights in Portugal. The first of them was *Mouta versus Portugal*, in 1998, and it created a case law in the European Court of Human Rights (ECtHR). After being denied custody of his only daughter because of his sexual orientation, Joao Mouta (the father) took his case to the ECtHR. The Portuguese state was found guilty of discrimination and violation of the right

to respect for private and family life.<sup>9</sup> In 2004, Opus Gay and Anabela Rocha started judicial proceedings against Cesar das Neves, an academic and columnist. The claimants alleged there was homophobic content in some of das Neves' articles published in the newspaper *Diário de Notícias*. The case never went to court. Finally, there is an ongoing court case initiated by two lesbian women who are demanding the right to be allowed a civil marriage based on the fact that the Portuguese constitution states that no one can be discriminated against because of sexual orientation. Presently, the case is awaiting sentence from the highest court of appeal in the country, the Constitutional Court.

## RELIGION AND SPIRITUALITY

Catholicism is the dominant religion in Portugal: 72 percent of the population is religious and, among those, 97 percent self-identify as Catholic. In 2001, 63 percent of all weddings celebrated in Portugal were Catholic.<sup>10</sup>

On several occasions, Catholic authorities have expressed their public views against the recognition of LGBT rights. Due to the symbolic power it holds, the Catholic Church is one of the main powers blocking the advancement of LGBT claims, namely those that are family or child related.

There is no tradition of religious LGBT groups in Portugal. However, there are two recent religious LGBT groups. One is called the Portuguese Group of Social Intervention, whose members are self-identified as lesbians and gay men, and former members of the religious Jehovah's Witness movement. The other one is called Rumos Novos (New Paths) and is self-defined as a Catholic homosexual group.

## VIOLENCE

There have been several reported cases of homophobic and transphobic violence, including death threats and the beating of gay men in public toilets in the northern rural city Viseu, in 2005. This mobilized the movement to organize a major petition against violence, to give legal support to the victims, to denounce the attacks in the media, and to organize several initiatives such as debates and demonstrations in the streets. Furthermore, these attacks were politically legitimized by the city mayor, who asked for the authority's intervention in order to prevent homosexual encounters in public toilets in the city. This request was at odds with article 13 of the constitution, which forbids discrimination based on sexual orientation. Furthermore, the request is not supported by any other law, as homosexuality and prostitution are not considered crimes according to the Portuguese penal code. The mayor, later on, joined the *stop-homophobia* demonstration in Viseu, organized by the LGBT movement in May 2005.

In February 2006, Gisberta, a transgender woman, was repeatedly tortured, raped, and beaten, thrown into a well, and left to die. The aggressors were a group of teenage boys and the court sentence dated August 1, 2006, stated that Gisberta died not from injuries but because she had drowned in the well water. This case stirred international support, and for the first time the transgender movement achieved some visibility concerning discrimination and the specific measures required to combat it. This case led to a change in the penal code in 2007, whereby sexual orientation was included among the aggravating grounds for hate crimes (article 132).

There have been debates around same-sex domestic violence. In December 2006, the Union Association of Portuguese Judges issued a document stating that there could not be a legal recognition of same-sex domestic violence because same-sex civil marriage was not allowed. Furthermore, it was also stated that domestic violence presupposed a physical strength difference, which was absent from same-sex relationships, and that same-sex families were nothing but ideological banners, for advocacy purposes.<sup>11</sup> In spite of this statement, the new penal code, which came into force in September 2007, included among potential victims of domestic violence a person—either same-sex or different-sex—with whom the aggressor has or has had a relationship similar to married partners, regardless of whether they are cohabiting or not (article 152).

## OUTLOOK FOR THE 21ST CENTURY

LGBT issues in Portugal are rich and complex. The early years of the LGBT movement date to the 1990s, and there were many social and cultural struggles and legal achievements in very few years. However, some areas remain less visible than others, as is the case with bisexuality, intersexuality, and—to a lesser extent in recent years—transgenderism.

Another underestimated group is queer-straight, who remain a minority inside another minority. But there is an increase in the numbers of people that, despite their self-perceived heterosexuality, engage in praxis of public support of LGBT issues. This is obvious in recent LGBT marches, where self-identified heterosexual celebrities and other people join the event, demonstrating a public commitment against heteronormativity.<sup>12</sup>

There are no lesbian and gay studies or queer theory modules taught either at the undergraduate or postgraduate level in Portuguese universities. Nevertheless, LGBT issues in academia are an area in expansion, as demonstrated by the growing interest on the part of students and researchers.

## RESOURCE GUIDE

### Suggested Reading

- Ana Brandão, “Ser e Saber—(re)visitações do passado e construção das identidades (homo)sexuais,” *Actas do V Congresso Português de Sociologia*, Associação Portuguesa de Sociologia, May 12–15, 2004.
- Clara Caldeira, *A Representação das Minorias Sexuais na Informação Televisiva Portuguesa* (Lisbon: Livros Horizonte, 2006).
- Nuno Santos Carneiro and Isabel Menezes, “From Oppressive Languages to Affirmative Identities: Lesbian and Gay Political Participation in Portugal,” *Journal of Homosexuality* 53, no. 3 (2007): 65–82.
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- António Fernando Cascais, “Como Quem Não Quer a Coisa,” *Fenda (In)Finda* 7 (1983): 9–17.
- António Fernando Cascais, “Portugal,” in *Dictionnaire de l’Homophobie*, ed. Georges-Louis Tin (Paris: Presses Universitaires de France, 2003).



- António Fernando Cascais, ed., *Indisciplinar a Teoria: Estudos Gays, Lésbicos e Queer* (Lisbon: Fenda, 2004).
- Octávio Gameiro, *Do Acto à Identidade: Orientação Sexual e Estruturação Sexual*. Master's thesis, ICSUL, Lisbon, 1998.
- Carlos A. M. Gouveia, "Assumptions about Gender, Power and Opportunity: Gays and Lesbians as Discursive Subjects in a Portuguese Newspaper," in *Feminist Critical Discourse Analysis. Gender, Power and Ideology in Discourse*, ed. Michelle M. Lazar (London: Palgrave Macmillan, 2005).
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- Ana Cristina Santos, *A Lei do Desejo: Direitos Humanos e Minorias Sexuais em Portugal* (Porto: Afrontamento, 2005).
- Ana Cristina Santos, "Cidadania Sexual na Democracia Portuguesa," *Revista de Psicologia Política* 4, no. 8 (2004): 253–74.
- Ana Cristina Santos, "Direitos Humanos e Minorias Sexuais em Portugal: o Jurídico ao Serviço de um Novo Movimento Social," in *Indisciplinar a Teoria. Estudos Gays, Lésbicos e Queer*, ed. Fernando Cascais (Lisboa: Fenda, 2004).
- Ana Cristina Santos, "Entre a academia e o activismo: sociologia, estudos queer e movimento LGBT em Portugal" ["Between Academia and Activism: Sociology, Queer Studies, and the LGBT Movement in Portugal"], in *Queer Studies: Identities, Contexts and Collective Action* (special issue, *Revista Crítica de Ciências Sociais*) 76 (2006): 91–108.
- Ana Cristina Santos, "Feminismos e Lesbianismos: notas para uma tradução (ou alicerces de uma ponte por reconstruir)" ["Feminism and Lesbianism: Contributions to a Translation"], in *Feminismos 80 Anos Depois*, ed. Lúcia Amâncio, Manuela Tavares, and Teresa Joaquim (Lisboa: D. Quixote, 2007).
- Ana Cristina Santos, "Heteronormatividades: formas de violência simbólica e factual com base na orientação sexual e na identidade de género" ["Heteronormativities: Forms of Symbolic and Physical Violence Based on Sexual Orientation and Gender Identity"], in *Forms and Contexts of Violence* (special issue, *Revista Portuguesa de História*) 37 (2006): 281–98.
- Ana Cristina Santos, "Heteroqueers contra a heteronormatividade: notas para uma teoria queer inclusiva" ["Straight-queers against Heteronormativity: Towards an Inclusive Queer Theory"], *Oficina do CES239* (November 2005), <http://www.ces.uc.pt/publicacoes/oficina/239/239.php>.
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- sociedade cosmopolita* [*Human Rights in the Cosmopolitan Society*], ed. César Augusto Baldi (Rio de Janeiro: Editora Renovar, 2004).
- Miguel Vale de Almeida, *A Chave do Armário: Homossexualidade, Casamento, Família* (Lisbon: ICS, 2009).
- Paulo Jorge Vieira, *aeminiumqueer: Quadro Teórico e Estudo Exploratório*. Bachelor's thesis, Instituto de Estudos Geográficos, Coimbra, 2005.

### Organizations

- Associação Cultural Janela Indiscreta, <http://www.lisbonfilmfest.org/>.  
Cultural organization responsible for the Lisbon Lesbian and Gay Movie Festival since 1997.
- AT—Associação para o Estudo e Defesa dos Direitos à Identidade de Género, <http://a-trans.planetaclix.pt/>.  
Created in 2003, in Lisbon, it is the only transgender-only organization in Portugal.
- Clube Safo, <http://www.clubesaf.com/>.  
Created in 1996. It is the only women-only LGBT organization. Besides co-organizing national events, they organize annual women's camps and edit a bi-monthly bulletin called *Zona Livre*.
- ILGA-Portugal, <http://ilga-portugal.oninet.pt/>.  
Created in 1995, in Lisbon, they run the only Lesbian and Gay Communitarian Centre, a space that was given by the Lisbon municipality in 1997. ILGA-Portugal has organized the Annual Lisbon Pride Party since 1997.
- não te privas*—Grupo de Defesa dos Direitos Sexuais, <http://www.naoteprires.org/>.  
Created in 2002, in Coimbra, it is a youth organization and the only one that is simultaneously feminist and LGBT in its self-identification.
- Opus Gay, <http://www.opusgay.org/>.  
Created in 1997, in Lisbon. They run a LGBT weekly radio show (since 1999) and they co-edited the *First Anthology of Portuguese Homoerotic Literature*, and edit the magazine *Korpus*.
- Panteras Rosa—Frente de Combate à LesBiGayTransfobia, <http://www.panterasrosa.com/>.  
Created in 2004, in Lisbon, they mainly organize direct action initiatives.
- Ponto Bi, <http://www.pontobi.org/>.  
Created in 2006, in Porto, it is the only bisexuality-only organization.
- PortugalGay.PT, <http://portugalgay.pt/>.  
Created in 1996, in Porto, they have organized the Porto Pride since 2001 and have co-organized the Porto LGBT March since 2006. They also launched the Porto Gay and Lesbian Guide in 2000. Their regular activities center on a Web site that, as they report, receives 75,000 visits per month.
- rede ex aequo*, <http://ex-aequo.web.pt/>.  
Youth organization created in 2003, in Lisbon, with branches in most regions of the country. They organize youth camps and run an education observatory designed to collect data on and monitor bullying in schools.

### NOTES

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2. Eurobarometer, "Discrimination in the European Union" (Lisbon: INE, January 2007).
3. José Machado Pais, ed., *Gerações e Valores na Sociedade Portuguesa Contemporânea* (Lisbon: Secretaria de Estado da Juventude, 1998).
4. *Expresso*, December 30, 2005.
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7. For example, Bar 106, <http://www.bar106.com/>; Bar O Bico, <http://www.obico.org/>; Bar Pride Bar, <http://www.pride-bar.net/index2.html>; Club Boys'R'Us, <http://portugalgay.pt/pub/boysrus/>; Club Trumps, <http://www.trumps.pt/>; Hotel Anjo Azul, <http://www.cb2web.com/anjoazul/index-en.php>; Hotel Pouso dos Anjos, <http://www.pousodosanjos.com/>.

8. António Fernando Cascais, "Diferentes como só nós. O associativismo GLBT português em três andamentos," *Revista Crítica de Ciências Sociais* 76 (2006): 109–26; Ana Cristina Santos, "Sexualidades politizadas: o activismo nas áreas da sida e da homossexualidade em Portugal" ["Politicised Sexualities: AIDS and Gay Activism in Portugal"], *Cadernos de Saúde Pública* 18, no. 3 (2002): 595–611.

9. The sentence of the European Court of Human Rights dates to December 21, 1999.

10. INE, *Census 2001* (Lisbon: INE).

11. *Diário de Notícias*, December 20, 2006.

12. Ana Cristina Santos, *Enacting Activism: The Political, Legal and Social Impacts of LGBT Activism in Portugal*, PhD dissertation, Centre for Interdisciplinary Gender Studies, University of Leeds, 2008.