

28th UPR Working Group sessions
Summary of recommendations on trans issues for Switzerland
By Transgender Network Switzerland (TGNS)

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I. Comprehensive Strategy or Action Plan

Trans people are still a highly-stigmatized group at the margin of Swiss society. Nevertheless, whilst being trans influences nearly all areas of one's life – such as school, work, walking in public spaces, going to a restaurant or shop, asylum, prison, parenting, sports, medical settings, etc. – support can only be found in areas which the State considers as being specifically challenging. This shows that the full spectrum of consequences of being trans are neither seen nor recognized yet. Consequently, the State can only fulfil its duties to respect, protect and fulfil the human rights of trans people by taking a comprehensive approach.

Proposed Recommendation:

- *Develop and implement in cooperation with trans civil society organisations a comprehensive national strategy or an action plan to respect, protect and fulfil the human rights of all trans persons by all levels of the State.*

II. General / Structural issues

A. Statistics

Switzerland has only very scarce statistics about trans people. Therefore, lived realities of trans people are invisible – including the level of human rights violations they face.

In the last review cycle of the CEDAW (4th and 5th), the Committee recommended that Switzerland “include reference to, and documentation on, LGBTI persons in national **health** surveys and registers” (Concluding Observations, issued on November 18, 2016, § 39(c)). So far, we have not received any information about measures being planned or taken to implement that recommendation. Moreover, statistics are also needed in fields such as access to justice or hate crime and discrimination; they are key to know the degree and the driving factors of the violations. In a study on **access to justice** in case of discrimination, the Swiss Centre for Expertise in Human Rights showed that there is a high level of discrimination and human rights violations against trans people. In August 2017, the Federal Council spoke out against recording **hate crimes** against LGBTI people. This contrasts with the experience of peer-to-peer counsellors and helplines who register an alarmingly high number of trans people who experience physical or verbal violence due to their gender identity or expression.

In conclusion, statistics would help measure the depth of discrimination, violence and other human rights violations trans persons face and help institutions develop a strategy to counter them hand in hand with trans civil society organisations.

B. Awareness raising and agency building

Trans people often face difficulties in their encounters and contacts with State agencies such as the police, courts, schools, social insurances, register authorities, etc. The lack of awareness for, and knowledge about trans people of many state employees as well as structural problems are barriers to the accessibility to State organs. By this, trans people often do not have their human rights respected, protected and fulfilled. Trans people would for instance be afraid to call the police after having been victims of an attack because they had the experience of not being taken seriously, or they would quit school because their gender is not respected or nothing is done to counter bullying. To counter this widespread exclusion and discrimination all powers of the state need to be trained and sensitized.

Proposed Recommendations:

1. *Adapt the surveys used by the Federal Statistical Office in order to include trans people and have their gender identity as well as their lived realities reflected.*
2. *Provide state and canton authorities, including law enforcement and judicial officials, decision-makers and administration with human rights training for the protection of trans persons rights.*
3. *Support trans civil society organizations with sufficient (financial) resources.*

III. Health

A. Access to gender affirmative healthcare

In Switzerland, **health insurances often refuse to cover medically indicated treatment**, inter alia because **medical examiners** opinions can *de facto* overrule an indication from a specialist and thus preclude trans people from their treatment. This results in unequal access to necessary gender affirmative healthcare and exacerbates problems such as depression and suicidal behaviour. In its latest concluding observations on Switzerland, the CEDAW recommended to “ensure that the costs for such interventions are reimbursed”. Yet so far, the Federal Office of Public Health has not expressed any will to implement this recommendation and make gender affirming healthcare accessible for all trans people.

Another issue of concern is the **quality of genital surgery** performed in Switzerland. Surgeons practicing these operations often do not have sufficient experience and as a result do not meet the internationally recognized standards; whilst highly **trained surgeons abroad are not reimbursed** by basic health insurance.

Proposed Recommendations:

4. *Adapt the respective regulation to ensure reimbursement by basic health insurance of all indicated gender affirming treatment for all trans people.*
5. *Make use of the Federal Councils competence (Federal Health Insurance Act) to ensure genital surgery performed by specialists abroad is reimbursed by basic health insurance.*

B. Suicide and HIV

Many studies conducted in other countries show that about two thirds of trans people have **suicidal** thoughts. Suicide prevention work in Switzerland does not include trans people specifically nor are there any statistics. Also, Trans people are at heightened risk of being **HIV**-positive, as many studies conducted in other countries show. In spite of this, the National Program on HIV and other sexually transmitted infections (NPHS) 2011-2017 states that there is no evidence that trans people are at a higher risk of infection with HIV than the “heterosexual population”. In September 2017, the Federal Council announced the prolongation of the program for another four years; it is not yet known whether trans people will be included as a specific group at risk.

Proposed Recommendations:

6. *Include trans people as specific group at risk and increase activities to protect them in the national suicide prevention plan.*
7. *Include trans people as specific group at risk and increase activities to protect them in the next National Program on HIV and other sexually transmitted infections (NPHS 2018–2021).*

IV. Trans people at specific risks

While at one point in their lives all trans people experience a violation of their rights, some groups are at an increased risk, namely asylum seekers, people of colour, sex workers, poor people, prisoners, children, people with disabilities or people with a non-binary gender identity. Specific problems arise for non binary trans people because the only official gender markers are “F” and “M”. Furthermore, as many trans people have to survive on little economic means, the high costs for legal gender recognition (up to more than 1'000 CHF) and the often degrading and complicated process to apply for legal aid may as well ban trans people from having their gender identity recognized.

Proposed Recommendations:

8. *Enact guidelines ensuring the fundamental rights of trans pupils and students by all Cantons in consultation with trans NGOs.*
9. *Enact guidelines to deal with the claims of trans asylum seekers in a non-evasive, reasonable and sensitive manner, and to ensure careful consideration of the risk of persecution in their country of origin and in other countries they could be deported to especially as a result of the “Dublin System”.*
10. *Ensure that all trans asylum seekers and their partners are not accommodated in asylum camps but provided with safe housing.*
11. *Introduce, implement and monitor guidelines for all Cantons to ensure trans prisoners human rights.*
12. *If a law on legal gender recognition shall be drafted, fully include trans civil society organisations as experts in all steps of the procedure; include a third gender marker (beside “F” or “M”); and lift or lower significantly the costs for legal gender recognition.*