**Discrimination and xenophobia in covering the topic of refugees in Yahotyn**

**Opinion №3**

April 4, 2016

The Independent Media Council examined the ethics and legitimacy of Ukrainian media coverage of refugees and asylum seekers on its own initiative. The reason for examining this topic was the way some Ukrainian media outlets reported on the activities of the temporary refugee accommodation center in the city of Yahotyn, Kyiv region, in February-March 2016.

The members of the Independent Media Council concluded that most Ukrainian media outlets covering the issue violated international and national laws regarding the unacceptability of discrimination and the spread of hate speech, including a significant violation of professional and ethical standards.

**Conclusion**

**I. The circumstances of the case**

On March 16, 2016, the members of the Independent Media Council Nataliia Humeniuk, Diana Dutsyk and Antonina Cherevko proposed to discuss the possibility of reviewing the case for potential violations by a number of Ukrainian media outlets in their reporting on the temporary refugee accommodation center in Yahotyn, Kyiv region.

On March 21, 2016, in accordance with paragraphs 4 and 12 of the Regulations on the Independent Media Council, the Independent Media Council decided to review the case on its own initiative.

The problems of media reporting on refugees in late February and early March 2016 became extremely relevant in the light of opening a temporary refugee shelter in Yahotyn, Kyiv region. The national TV channels that have the largest audience and leading online media came up with stories presenting information regarding the attitude of local residents toward opening the refugee shelter mainly in a negative light. Most stories were characterized by skewed terminology, creating the image of refugees as dysfunctional people that only do harm and bring disease, and by the spread of such negative stereotypes.

On March 18, 2016, the portal Detector Media published an analysis by Serhiy Lefter of media coverage of refugees entitled “Intimidating with Syrian refugees. A Ukrainian media master class".[[1]](https://mediarada.org.ua/case/dyskryminatsiya-ta-ksenofobiya-u-vysvitlenni-temy-bizhentsiv-u-yahotyni/?fbclid=IwAR2o-rsDUwBPepI9OTVUi_XXbeZFbVFyyCG1tcdnN8utdbzqUD3w8gytK2Y#_ftnref1) The monitoring results presented in the analysis lie at the base of this opinion by the Independent Media Council, pursuant to paragraph 10 of the Regulations on the Independent Media Council.

**ІІ. Regulation**

**International Covenant on Civil and Political Rights**

**Article 20**

Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

**Constitution of Ukraine**

**Article 24.** Citizens have equal constitutional rights and freedoms and are equal before the law.

There shall be no privileges or restrictions based on race, color, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics

**Article 34.** Everyone is guaranteed the right to freedom of thought and speech and the free expression of his or her views and beliefs.

Everyone has the right to freely collect, store, use and disseminate information by oral, written or other means of his or her choice.

The exercise of these rights may be restricted by law in the interests of national security, territorial indivisibility or public order, to prevent disturbances or crimes, protect the health of the population, the reputation or rights of other persons by preventing the publication of information received confidentially or supporting the authority and impartiality of justice.

**Article 68.** Everyone is obliged to strictly abide by the Constitution of Ukraine and the laws of Ukraine, and not to encroach upon the rights and freedoms, honor and dignity of other persons.

**Criminal code of Ukraine**

**Article 161. Violation of citizens’ equality of citizens depending on their racial, national affiliation, religious beliefs, disability and other grounds**

Willful actions inciting national, racial or religious enmity and hatred, degrading national honor and dignity, or insulting citizens' feelings in connection with their religious beliefs, as well as any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color, political, religious and other beliefs, sex, disability, ethnic and social origin, property status, place of residence, linguistic or other characteristics shall be punishable by a fine of 200 to 500 non-taxable minimum incomes or restraint of liberty for up to five years, with deprivation of the right to hold certain positions or engage in certain activities for up to three years.

Actions specified in parts 1 or 2 of this Article, committed by an organized group of persons or causing grave consequences shall be punishable by imprisonment of five to eight years.

**Law of Ukraine On Television and Radio Broadcasting**

**Article 6.**

It shall be prohibited to use television and radio organizations for:

propaganda of the exclusivity, superiority or inferiority of persons on the grounds of their religious beliefs, ideology, belonging to a particular nation or race, physical or property status, and social origin;

- disseminating any information which violates the legal rights and interests of natural or legal persons or infringes on personal honor and dignity

**Article 59.**

The television and radio organization shall be obligated to:

 c) disseminate objective information;

g) treat respectfully the national dignity, national identity and culture of all peoples.

**Article 60.** 1. The creative workers of the television and radio organization shall:

b) check the accuracy of the information received by them;

c) prevent the dissemination of information specified in part two of Article 6 of this Law;

d) prevent the cases of dissemination in television and radio programs of the information violating the rights and legitimate interests of citizens and demeaning their honor and dignity.

**Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection"**

**Article 1.** 1) **A *refugee***: a person who is not a citizen of Ukraine and who owing to a well-founded fear of becoming a victim of persecution for reasons of race, religion, nationality, citizenship, membership of a particular social group or political opinion, is outside the country of his citizenship and is unable to avail himself of the protection of this country or unwilling to avail himself of this protection owing to such fear; or, not having citizenship and being outside the country of his previous permanent residence, is unable or is unwilling to return to it owing to the mentioned fear.

**Law of Ukraine On Immigration**

**Article 1**. 1) *immigration* shall be understood as arrival in Ukraine or stay in Ukraine, in the manner prescribed by law, of foreigners and stateless individuals with the purpose of permanent residence;

*immigrant* shall be understood as a foreigner or a stateless individual who has obtained an immigration permit and arrived in Ukraine for permanent residence or, while staying legally in Ukraine, obtained an immigration permit and remained in Ukraine for permanent residence.

**Ethics Code of Ukrainian journalists**

Journalists should avoid insulting people's national, racial, ethical and religious views and feelings in their publications and programs. They should combat extremism and restrictions on civil rights on any grounds.

**III. Assessment of compliance with legal requirements and standards of information coverage**

The analysis of the appropriateness of information coverage should begin with defining appropriate concepts to be used by the media. Serhiy Lefter’s monitoring results show that the media mainly use the terms "refugees", "migrants", "asylum seekers", "fugitives", and "foreign refugees" to report on the same category of people. Such a simplification is typical of journalists, yet it is wholly inappropriate from a legal point of view.

The above terms are mainly defined by national laws (the laws of Ukraine “On Refugees and Persons in Need of Complementary or Temporary Protection” and “On Immigration”). In the opinion of the Independent Media Council, they should be used in accordance with their definitions in the law.

Accordingly, one should refer to persons as **refugees** if they:

* are not citizens of Ukraine;
* have well-founded fears of being persecuted on various grounds;
* cannot return to their own country or enjoy its legal protection;
* have received asylum in Ukraine in accordance with national law.

Among the refugees are not only Syrians forced to leave their homeland on religious grounds, due to their political views or the hostilities, but also, say, Russian opposition members forced to leave their country because of the risk of persecution for their anti-government stance. Given this definition, using the phrase "foreign refugees" is tautological.

**Besides, the obligation of non-refoulement of such refugees is part of Ukraine's international obligations under the 1951 Refugee Convention**.To ensure the fulfillment of this obligation, centers are opened similar to that in Yahotyn and those already operating in Odesa and Mukachevo.

However, the terms "asylum seeker" and "migrant" refer to other groups of persons. **Asylum seekers** are those seekingprotection and claiming persecution or fear of persecution under the 1951 Convention and awaiting the application results; in fact, it is the status of those persons who have already arrived in the country but not yet received the formal decision to obtain refugee status.

**Migrants** are those who:

* are not citizens of Ukraine;
* have obtained an immigration permit;
* permanently reside in Ukraine before or after obtaining an immigration permit.

Such people can be primarily economically motivated since they may come to a new country in search of economic stability and new labor markets. Therefore, the term "economic migrants" is common. [2] This category includes, in particular, Ukrainian workers in Europe. The state has no special obligation toward such persons to provide them with proper living conditions.

When reporting on refugees’ and asylum seekers’ rights, it is necessary to use proper terminology and give the words their right meanings. It is also useful to explain who exactly asylum seekers and refugees are, what made them leave their country and why they need to be provided with a minimum standard of living. Such a terminological clarification is an appropriate preventive measure when imparting information since it can help eliminate negative connotations that often stereotypically arise at any mention of people coming to Ukraine from abroad for various reasons.

The topic of refugees apparently drew has the attention of the Ukrainian media because of the so-called migration crisis in Europe, where more than a million migrants and asylum seekers arrived in 2015.[3] Many of the migrants arrived from Syria, where a devastating **war began in 2011 and claimed the lives of 300,000 people forcing approximately 12.000,000 to leave their homes**.[4] According to the report of February 3, 2016, prepared for the UN Human Rights Council, the **Syrian government has resorted to the targeted and systematic extermination of civilians** that also suffer from the actions of radical groups such as ISIS [5]. It is completely wrong, however, to think that Europe is the top destination for asylum seekers from Syria. **For comparison, Turkey received 2.6 million persons, and Lebanon more than a million** [6].

The major problem in covering refugee-related information is xenophobia and hate speech, common in this context not only in Ukraine but also in some parts of the European Union. Hate speech is one of the few forms of expression expressly prohibited by law; **according to Article 20 of the International Covenant on Civil and Political rights, any advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence shall be prohibited by law.**    

"They are coming on to us. Meet the Syrian refugees moving to Ukraine", "Will the Arab invasion overwhelm Ukraine any day now?" such were the words used in telling the story about the center in Yahotyn shown by the 1+1 TV channel as part of the program "Money" [7].

"And there may be violence, they’ll bring in disease", "Locals are really afraid of the nomads, believing they are wild and trouble-making", "Ukrainians have been warned about the high level of a terrorist threat from such guests" – these are the words said on-air during the Breaking News program on ICTV by the host and other participants (a Yahotyn resident and the president of the Syrian Diaspora in Ukraine). [8] The host brought up the recent case of an "Uzbek head-cutting babysitter" in Moscow, although it would be more appropriate to include the latter in the economic migrants' category. Besides, this person’s crime can in no way justify negative generalizations about a whole group of people.

"Refugees have not been accommodated yet, but people are really scared: they’re talking about an outbreak of crime and new diseases" is the phrase heard from the mouth of a Channel 5 host [9].

Such mentions fixate on imaginary potential violence generating a stereotypical view of Syrians and/or the Islamic religion as terrorists, rapists, etc., which is not true. Common sense says that unlawful actions are committed by people of all religions and nationalities in all countries of the globe, so it is totally unacceptable to create such negative generalizations and be guided by such stereotypes because it is tantamount to the spread of xenophobia and hate speech.

As the European Court of Human Rights pointed out in *Norwood v. the United Kingdom*, no general attack against a particular group of people linking the group as a whole with a grave act of terrorism is incompatible with the values proclaimed and guaranteed by the European Convention on Human Rights, notably tolerance, social peace and non-discrimination [10]. The Court reached the same conclusion in *Pavel Ivanov v. Russia*, concerning the applicant's attributing all troubles in Russia to representatives of the Jewish people.[11]   

The above ideas are presented in the context of the Yahotyn community’s overall negative opinion toward the possibility of opening a shelter. Coupled with associating the refugees (mostly Syrians and Afghans referred to as ethnic groups of refugees) with disease, terrorism, violence, dirt, and wars in the almost complete absence of alternative views, providing asylum seekers’ personal stories without explaining Ukraine’s international obligations toward these individuals and without expressing normal, human sympathy for those forced to leave their homeland due to war, this context poses a significant risk of inciting hostility in society toward asylum seekers, refugees and migrants, and hence hate speech.

Besides, special emphasis should be put on the methods used by the media to manipulate public opinion. Firstly, most of the media stories under consideration draw a line between "ours and aliens". Counterposing the refugees’ problems to those of ATO veterans and internally displaced persons and constantly repeating that it is a "requirement of the European Union to grant us a visa-free regime" contributes to a potential schism in the community, completely ignores human rights values, and once again unjustifiably diminishes Ukraine's European integration process.

Secondly, it is common to appeal to the interests of children and the risk of being attacked by refugees. Appealing to the interests of children and threats associated with them is additional manipulative technology aimed at the most vulnerable spot for most citizens, creating an atmosphere of fear without any factual justification. However, the media completely ignored the fact that a considerable number of asylum seekers are minors since women and children suffer the most during armed conflicts. A simple study will show **that currently, 36% of asylum seekers and migrants in Europe are children, and starting from September 2015, two children drowned every day on average trying to cross the Mediterranean in search of a safer life.**[12]   

Thirdly, most media stories ignore the stories of the refugees themselves, without going into the details of their life tragedies, making the subject of the discussion invisible, depriving them of their right to vote, and discriminating them because of their vulnerable position without any chance for understanding and compassion from Ukrainian society. **According to Serhiy Lefter, the only exceptions are the TV channels STB (the Vikna program) [13]** **and Ukrayina (the Events of the Week program)** **[14]. Among other things, these TV channels showed the experiences of the other centers in Odesa and Mukachevo, presenting an alternative opinion that showed refugees in a positive light.**

Fourthly, media coverage on the topics failed to include a sufficient number of opinions of well-known experts in the field of refugee rights protection. Therefore, the reasons behind the local residents’ position toward opening a temporary refugee accommodation center did not get enough commentary and was not fully analyzed.

The Independent Media Council must state that **most media stories** relating to such a vulnerable group as the persons forced to flee persecution and horrors of war were **characterized by simple legal, political and cultural ignorance, creating and imposing negative stereotypes, manipulation aimed at spreading xenophobia, and sowing panic among the local population, as well as a striking lack of empathy for human suffering and respect for human rights values**. Such irresponsible behavior of the media is unacceptable not only in a UN member state seeking to establish itself as an active and independent subject of international relations, not only in a country that also has suffered from aggression and undeclared war but also in any civilized society that has not lost its humanity retaining respect for people, their life, rights and freedoms

**Conclusions**

On reviewing media coverage of a temporary refugee accommodation facility in Yahotyn, Kyiv Oblast by some Ukrainian media outlets, the Independent Media Council concluded that most Ukrainian media reporting on refugees and asylum seekers violated international and national laws on discrimination and the spread of hate speech, including a significant violation of professional and ethical standards. The Independent Media Council strongly condemns such practices in the Ukrainian media and hopes that in the future, Ukrainian journalists will refrain from discrimination, xenophobia and hate speech and instead become leaders in professing tolerance and humanism, thus helping to find effective as well as moral answers to such challenges of our time as conflicts and migration crises.

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Votes:                               “In favor”     — 14

                                          “Against”      — 0

                                          “Abstained” — 0

Head of the Independent Media Council                        N. Luhachova

Secretary of the Independent Media Council                  I. Rozkladai

Secretary of the Independent Media Council                  R. Holovenko