The right to freedom of thought, conscience and religion encompasses freedom of thought on all matters, personal conviction, and the commitment to religion or belief, whether manifested individually or in community with others. The right to freedom of religion is a very important human right, which is central to the functioning of modern democracies. This right is also under pressure from many sides: Freedom of religion is often brought into play before national and international human rights mechanisms, and it is the subject of many scholarly discussions and public debates.

The fundamental character of the right to freedom of religion is reflected in the fact that the provision protecting it cannot be derogated from, even in time of public emergency. However, the right to freedom of thought, conscience and religion does not protect every act motivated or influenced by a religion, belief, or personal moral sense or conscience. Some restrictions and limitations can be imposed on the right to manifest one’s religion. While religion can be an intensely private matter for some, many religions include communal rites. In order to profess their religion, individuals will often need to associate with others and assert their religious freedom “in community with others” whether in “public or private”. Thus, freedom of association is linked to freedom of religion in that it protects religious groups [see Chapter 9 on Freedom of Association].

\[1\] ICCPR Article 4(2); ECHR Article 15(2).
\[2\] ECHR Article 9.
8.1. Definitions

*Religion and Belief*

The right to freedom of religion and beliefs protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. This right is not limited in its application to well-established religions or to religions and beliefs with institutional characteristics or practices similar to those of traditional religions. The terms ‘belief’ and ‘religion’ are to be broadly understood. International or regional human rights mechanisms do not operate with a specific definition of religion or belief, since they claim that the meaning of these two words is generally understood by all.

There are three distinguishable elements embedded in freedom of religion: the freedom to have a religion or no religion, the freedom to practice a religion or not practice a religion, and the freedom to manifest one’s religion. While freedom of religion is fundamentally a matter of individual conscience and is exercised within one’s private sphere, it also implies freedom to manifest one’s religion alone and in private; or in community with others, in public and within the circle of those whose faith one shares.

*Thought and Conscience*

No definitions of thoughts and conscience are directly used by international or regional human rights bodies. The notions are, however, different, as ‘thought’ covers the mere act of thinking and exercising reason, while ‘conscience’ includes a reference to moral sense. In practice, the right to freedom of thought and conscience has mostly been applied to conscientious objection.

A large number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service, replacing it with

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3 General Comment no.22, para. 2.
5 ECtHR Bucarini and others v. San Marino, 18 February 1999, Article 34.
6 ECtHR Metropolitan Church of Bessarabia v. Moldova, 13 December 2001, Article 37.