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## **On Freedom of Belief and Freedom of Expression as Natural (Socially General) Human Rights: Their Notion and Correlation**

### **Introduction**

The freedom of belief and the freedom of expression occupy a preeminent position among natural, inalienable human rights, inherent in human dignity. They should be perceived and interpreted in a functional manner, i.e. in the light of their purpose as an indispensable prerequisite in the process of informing and crystallising of individual's identity, self-recognition, autonomy and integrity<sup>1</sup>. The structure of beliefs and convictions that underlie the mentioned freedoms by constituting their 'object' of protection are essential components of human over-arching worldview.

The freedom of belief and freedom of expression, as any other freedom, can be analysed from two perspectives: firstly, as a natural (socially general) right and secondly as an subjective legal right. Within the former meaning the discussed freedoms appear as entitlements of a natural, socially general character that exist regardless of any conferment or recognition on the part of the state. The so called 'natural' origin of freedom of expression and freedom of belief has been dealt with by a number of scholars that attribute their origin to various sources, such as God, human consciousness or society. Taking into account contemporaneous trends in social development, we assume that the examined freedoms are to be viewed as natural human abilities. Such an approach can be inferred from the major international documents on the protection of human rights that embody the substantial human achievements and aspirations in this field.

On the other hand, the freedom of belief and freedom of expression perceived as subjective legal rights evidently depend on the state authorities that declare, recognise them and create legal guarantees for their implementation and protection.

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<sup>1</sup> A. Jakuszewicz, *Ujęcie wolności sumienia w świetle demokratyczno-funkcjonalnej teorii praw podstawowych (Approach to Freedom of Conscience in the Light of the Democratic-Functional Theory of Fundamental Rights)*, „Studia Prawnicze KUL” 2014, nr 3, s. 54.

The aim of this paper is to determine the notion of freedom of belief and freedom of expression as natural (socially general) human rights and to reveal their correlation.

As far as the current state of the research is concerned, certain aspects of the freedom of expression and freedom of belief as natural right have been discussed by M. Babiy, V. Bondarenko, S. Bublyk, S. Buryanov, V. Yelenskyi, V. Coul Derem, A. Kolodnyi, A. Krasikov, N. Lerner, M. Marynovych, A. Pchelincev, P. RabInovych, V. Savelyeva, O. Sagan, H. Cheremnykch, O. Shuba, P. Yzrockyi and others.

The origins and peculiarities of the approaches to main ideas regarding freedom of expression and its correlation with other phenomenas, for instance with belief, have been an object of the research conducted by scholars such as: O. Alexandrov, O. Borovkov, M. Bilalov, D. Havr, B. Hrushyn, M. Dmytrovska, B. Yerunov, O. Klevakin, V. Korobeynykov, A. Nekhaev, Yu. Surmin, M. Teryohina, A. Uledov, O. Frost.

Certain aspects of the freedom of expression as natural (socially general) right have been discussed in the works of N. Vynogradova, M. Verpo, O. Zhukovska, Ye. Zaharova, S. Kravchenko, N. Kushakova, V. Lutkovska, M. Makovey, M. Muratova, E. Titko, S. Shevchuk, Ye. Chefranova etc.

### **Freedom of belief as natural (socially general) human right**

The basis for the freedom of belief is human's belief. The term 'belief' originates from the Latin word *veritas* which means 'truth' and *verus* – 'true'). In ancient Jewish language the notion of belief comprises the whole complexity of spiritual guidance. Two radicals are dominating: 'aman' (amen) that evokes the feeling of firmness, confidence and 'batah' – prosperity and faith<sup>2</sup>. According to some scholars, holding a belief is a mandatory element of a normal human consciousness<sup>3</sup>. Consequently, there is no human being that would not have a belief. 'Apparently – as P. Jonson notes, – there is a natural tendency to believe. Everybody believe. Not everyone believes in the same thing but everyone believes in something'<sup>4</sup>. A belief in a broad sense is a confidence in the existence of certain phenomena, the recognition of their reality notwithstanding the character of evidence or facts on which such a belief is founded<sup>5</sup>.

<sup>2</sup> Словник біблійного богослов'я / Ксав'є Леон-Дюфур та ін. / за ред. Софрона Мудрого. (Dictionary of theological studies / Xavier Leon-Dufur and others / edit. by Sofron Mudryi). – Львів : Місіонер, 1996. – С. 20 (Lviv : Missioner, 1996. – p. 20).

<sup>3</sup> Волков Ю.Г. Человек : энциклопедический словарь / Ю.Г. Волков, В.С. Поликарпов (Volkov Yu. G. A Human : encyclopedia / Yu. G. Volkov, V. S. Polycarpov). – М. : Гардарики, 2000. – С. 234 (M. : Gardaryky, 2000. p. 234).

<sup>4</sup> Johnson P. Psychology of Religion / P. Johnson - N.-Y.-Nashville, 1945. – P. 15.

<sup>5</sup> Соціальна філософія. Короткий енциклопедичний словник / за ред. В.П. Андрущенко, М.І. Горлача. (Socialphilosophy. Conciseencyclopedia/ edit. by V.P. Andrushchenko, M.I. Horlach.) - К.-Харків : Рубікон, 1997. – С. 86 (К.-Kharkiv : Rubikon, 1997. – P. 86).

It is therefore necessary to bear in mind that each belief has its object<sup>6</sup>. A person does not just believe, he or she believes in something. The object of a belief may be both a religious (belief in the existence of a God) and non-religious (belief in an 'ideal' society, physical eternity etc.)

A human belief can be analysed in two aspects. Firstly, as mental, psychological human activity directed to choosing an object of the belief and determining their inner relation to that object. We presume that the ability to conduct such activities is reflected in the notion of belief recognition. Secondly, the notion of belief may be interpreted as an external (physical) activity that is aimed at a manifestation of the belief in question. The ability to conduct such an activity is reflected in the notion of the freedom of belief. The freedom of belief as a natural (socially general) human right is therefore an ability to choose freely the object of one's belief and to make a choice as to the attitude towards that object. In other words, it is an ability to make an inner self-determination concerning one's belief. Law being a specific normative system by its very nature is not capable of regulating the choice of a belief as well as of views and ideas that make up a structure of an overall human worldview. Solely the freedom of belief is amenable to be regulated by law. In our opinion, freedom of belief as natural (socially general) human right is an ability to conduct certain actions or to refrain from them, with the help of which belief recognition is objectified.

The notion and structure of the freedom of belief can be inferred from the analysis of the main international legal documents on human rights. For instance, the Universal Declaration of Human Rights (Article 18), International Covenant on Civil and Political Rights (Article 18), UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion and Belief (Article 1), International Convention on Elimination of All Forms of Racial Discrimination (Article 5), European Convention on the Protection of Human Rights and Fundamental Freedoms (Article 9) (hereinafter – Convention) set forth “freedom of thought, conscience and religion” that comprises not only religious beliefs but also other convictions. Moreover, the whole range of documents adopted by the OSCE (Final Act of the Conference on Security and Cooperation (1975); Final Act of the Congress of Vienna (1989); Paris Charter for New Europe (1990)) declare «freedom of thought, conscience, religion and belief”.

The Universal Declaration on Human Rights stipulates that ‘everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with

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<sup>6</sup> Релігієзнавство : підручник / за ред. В.І. Лубського, В.І.Теремка. (Religionstudies : textbook / edit. by V. I. Lubskiy, V. I. Teremok). – К. : Академія, 2000. – С. 30 (К. : Academy, 2000. – P. 30); Угринович Д.М. Введение в религиоведение / Д.М. Угринович (Uhrynovych D.M. Introduction-toreligionstudies / D.M. Uhrynovych) – М. : Мысль, 1985. – С. 40 (М. : Mysl, 1985. – P. 40).

others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance' (Article 18).

N. Lerner states that the notion 'belief' as employed in Article 18 of the UDHR carries a special meaning. It should be understood and interpreted in the light of art. 18 and other international documents only in relation to the notion 'religion'. Accordingly, the term is not so broad as to encompass only such beliefs that fulfill in human life a role comparable to religion. It does not therefore include partial views on specific matters, such as political, cultural, scientific or economic views that do not considerably shape the identity of the individual in question. The notion of 'belief' was introduced into the Declaration in order to protect non-religious beliefs such as atheism and agnosticism, and its content was defined during the discussions on a variety of documents that contain certain aspects of religious rights<sup>7</sup>.

Furthermore, as A. Jakuszewicz has rightly noted, even if religious and non-religious beliefs are theoretically treated on an equal footing as far as their protection is concerned, persons who adhere to less known religious or philosophical traditions or hold individualistic philosophical convictions are likely to face considerable difficulties when asserting the discussed freedom. These difficulties refer above all to evidentiary problems as to genuineness and sincerity of the purported convictions. When alleging the violation of the freedom of belief or a duty of state authorities to respect parents' philosophical convictions in the field of education of their children, the applicants are supposed to prove that they hold them. This requirement does not appear with regard to religious convictions, since the mere adherence to a known religious community is deemed by the European Court of Human Rights as sufficient evidence to that effect. Moreover, the applicant has to prove that their non-religious beliefs or philosophical convictions are part of a serious, coherent and over-arching belief structure that underlies their claims<sup>8</sup>.

As a consequence of long-standing discussions held by different international bodies it was recognised that the formulation 'religion or belief' includes both theistic and non-theistic views<sup>9</sup>. For instance, in 1993 the UN Committee on

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<sup>7</sup> Лернер Н. Релігійні права людини на основі документів ООН / Н. Лернер // Релігійна свобода і права людини: правничі аспекти: У 2 т. (Lerner N. Religious human rights on the basis of the UN documents / N. Lerner // Religious freedom and human rights: legal aspects: in 2 Vol.) – Львів : Свічадо, 2001. – Т. 2. – С. 126–127. (Lviv: Svichado, 2001. – Vol. 2. – P. 126–127).

<sup>8</sup> Jakuszewicz A., The rights of Parents to Bring Up Their Children in Conformity with Their Religious and Philosophical Convictions vs. the Activities of Public Authorities in the Field of Education under the European Convention on Human Rights, Вісник Львівського університету. Серія міжнародні відносини. – 2013. – Випуск 33. – С. 141–142 /Visnyk of the Lviv University. Series International Relations. 2013. Issue 33. p. 141 et seq/.

<sup>9</sup> Ликвидация всех форм нетерпимости и дискриминации на основе религии или убеждения // Права человека: Серия исследований 2. (Elimination of all forms of intolerance and discrimi-

Human Rights published ‘General Commentary № 22 (48) to Article 18 of International Covenant on political and civil rights’, where it was stated that this Article protects theistic and non-theistic views<sup>10</sup>. It was also pointed out that the terms ‘religion’ and ‘beliefs’ should be understood in a broad sense and, as a result, each and every attempt at discrimination on the basis of religion or belief has to be suppressed. In particular, it refers to measures aimed at discriminating a religious community on the ground that it is a new or non-traditional movement or that its adherents comprise a minority in a given society, which in turn may give rise to violent attitude on the part of religious majority<sup>11</sup>.

### **Freedom of expression as natural (socially general) human right**

For a better understanding of the freedom of expression it is necessary to grasp the essence and determine the meaning of a view. There exist a divergency of approaches to the definition of the term ‘view’ in academic literature. Firstly, in its most general and basic meaning it is understood as a thought or a judgement about something<sup>12</sup>. In a broader sense it is a kind of knowledge about any phenomenon, subject or world in general together with the expression of an attitude towards it.<sup>13</sup> According to another approach, a view is one of the important manifestations of social and individual consciousness, a set of correlated judgments that comprise hidden or evident attitude, evaluation of any phenomenon, processes, events and facts of reality.<sup>14</sup> The adduced definitions shows that a view may serve as an instrument of evaluation and advice, since it defines the position of individual in a society, suggests solutions to social problems on the basis of definite premises and regulates individual behaviour as well as the course of action of social groups and institutions. In a narrow meaning, it can be seen as a thought or idea lacking of any substantial and coherent argumentation that would provide its underlying justification, hence unexamined or not supported with necessary factual information. A view can be a factor that determines human choices and assessment due to the fact that it is tightly linked to a belief, a worldview or a psychological pattern,

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nation based on religion or belief // Human rights: Series of research 2.) – Нью-Йорк, 1989.– С. 3 (New York, 1989. p. 3.

<sup>10</sup> Лернер Н., *op.cit.*, p. 130.

<sup>11</sup> *Ibidem.* p. 135.

<sup>12</sup> Великий тлумачний словник сучасної української мови (з дод. і доповн.)/ уклад. і гол. ред. В.Т. Бусел. (Dictionary of contemporary Ukrainian language by V.T. Busel). - К., Ірпінь : ВТФ «Перун», 2005. – С. 1004 (К., Irpin : VTF «Perun», 2005. – P. 1004).

<sup>13</sup> Соціально-психологічний словник / авт.-уклад. М. Чапка, У. Контни. (Social-psychological dictionary by M. Chapka, U. Contni).- Мисловице, 2010.– С. 302.(Mislovicve, 2010. – P. 302).

<sup>14</sup> Философия : энциклопедический словарь / под ред. А.А. Ивина. (Philosophy: encyclopedic dictionary by A.A. Ivina). – М. :Гардарики, 2006. – 2006. – С. 511.(М. :Hardaryky, 2006. – P. 511).

even though in many occasions it arises in the context of ambiguity. A view can be adequate with respect to reality; on the other hand, it may – to a greater or lesser extent – be divorced of it and thereby delusive. Furthermore, individual, social and collective views can be distinguished.

We subscribe to the approach adopted by A. Nekhayevym that a view as a specific cognitive form is an instrument for creation of a definite ‘image’ or ‘picture’ of the world by furnishing the way of its depiction – i.e. a point of view<sup>15</sup>.

A substantive and precise analysis of the formation of views, beliefs etc. together with their meaning and correlations has been conducted by I. Kant. He stated that ‘... the recognition of truthfulness or subjective importance of a judgement towards a belief consist of three elements: opinion, belief and knowledge. An opinion is the recognition of truthfulness when considering it is insufficient from both sides objectively and subjectively. If the recognition of truthfulness is sufficient in a subjective dimension and not in the objective one, this is called a belief. Finally, if the recognition of truthfulness may be characterised as subjectively and objectively fulfilled, it is called knowledge<sup>16</sup>.

Thus, the freedom of expression as a natural (socially general) human right – is a human ability to express externally thoughts and judgements about processes, events, facts of the reality, including certain attitude and assessment, in any available form.

There exist a number of universal international legal guarantees that ensure the freedom of expression. First of them is the UN Universal Declaration of Human Rights (1948) that proclaims: ‘Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers’ (Article 19). As it was mentioned, when quoting Article 18 of the Declaration it also implies the freedom to change opinion and belief. However, these freedoms are explicitly related to religious beliefs.

It is declared in the International Covenant on Civil and Political Rights that ‘Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice’ (Article 19).

<sup>15</sup> Нехаев А. В. Когнитивные функции мнения : автореф. дисс. на соискание уч. степени канд. философских наук : спец. : 09.00.11 «Онтология и теория познания» / Нехаев Андрей Викторович.(Nekhaev A. V. Cognitive functions of a thought: autoref. of diss. for Phd in philosophy: specialty: 09.00.11 «Ontology and gnoseology» / Nekhaev Andrey Viktorovich).– Тюмень, 2006.(Tyumen, 2006).[On-line resource]. – Entered from:<http://www.dissercat.com>

<sup>16</sup> Кант Иммануїл. Критика чистого розуму / пер. з нім. та приміт. І. Бурковського / I. Kant. (Immanuel Kant. Critique of pure reason / transl. from german lang. and edit. by I. Burkovskiy / I. Kant.) – К. : Юніверс, 2000. – С. 464–465 (К. : Universe, 2000. – P. 464–465).

Article 10 para. 1 of the Convention stipulates that ‘Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises’.

As a result, we may conclude that according to the provisions of the aforementioned international documents the freedom of expression comprises the following elements:

- The freedom to hold and Express beliefs and views (we presume it depends on individual understanding and attitude);
- The Freedom to seek, receive and impart any kind of information and ideas.

Besides, it is appropriate to emphasise that the freedom of expression contains some internal elements such as the ability to change one’s views and beliefs.

### **Freedom of expression and freedom of belief: matters of correlation**

Indeed, as it was shown *infra*, the freedom of belief is most tightly connected with the freedom of religion. Both views and beliefs are essential elements of human worldview. They appear to be intertwined.

An individual, when manifesting his/her views, may breach the rights and freedoms of other persons, for instance, their right to belief. In such a case the question arises whether the limits of the freedom of expression have been overstepped.

Let us discuss a concrete case. On 7 of January 2015 in Paris tragical events happened that brought into shock democratic societies. Three men, armed with weapon, attacked the headquarters of the French satirical magazine Charlie Hebdo.<sup>17</sup> Twelve people were killed, among them two representatives of law enforcement bodies, the chief editor of the magazine and a caricaturist Stefan Charbonne (he was on a black list of the terrorist grouping ‘Al Qaeda’. The terrorists tracked him down for publishing caricatures of Mohammed)<sup>18</sup>. Five more people were injured.

The magazine Charlie Hebdo is famous for its caricatures of Mohammed<sup>19</sup>. The day before journalists of this magazine published in Twitter a caricature of

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<sup>17</sup> Напад на Charlie Hebdo : зловмисники втекли із заручником. (Charlie Hebdo attack: offenders escaped with a hostage), [www.ukrinform.ua/ukr/news/napad\\_na\\_charlie\\_hebdo\\_zlovmisniki\\_vtekli\\_iz\\_zaruchnikom\\_2008380](http://www.ukrinform.ua/ukr/news/napad_na_charlie_hebdo_zlovmisniki_vtekli_iz_zaruchnikom_2008380) [entry date 7.01.2015].

<sup>18</sup> Напад на Charlie Hebdo: кількість жертв зросла до 12. (Charlie Hebdo attack: the number of victims rised to 12), [www.ukrinform.ua/ukr/news/napad\\_na\\_charlie\\_hebdo\\_kilkist\\_gertv\\_zrosla\\_do\\_12\\_2008388](http://www.ukrinform.ua/ukr/news/napad_na_charlie_hebdo_kilkist_gertv_zrosla_do_12_2008388)[entry date 7.01.2015].

<sup>19</sup> Напад на Charlie Hebdo : зловмисники втекли... op.cit.

the radical grouping leader named «Islamic state» Abu Bakra al-Bahdadi, which was attached with the subscription ‘Best wishes, by the way’<sup>20</sup>.

The caricatures of Mohammed printed in a magazine Charlie Hebdo undoubtedly were such as to hurt religious feelings of certain Muslims. It is worth recalling that in 2005 the Danish publishing house Jyllands-Posten published some caricatures of Mohammed, which resulted in a huge international conflict. The magazine Charlie Hebdo re-printed those pictures in 2006<sup>21</sup>.

In this context the question arises of whether the publication of the caricatures at issue should be seen as an act that goes beyond the limits of the freedom of expression and therefore should be restricted with a view to protecting the rights and freedoms of others, especially, the freedom of religion and belief. In our opinion, in order to answer this question we have to analyse more precisely what was the specific objective that the journalists intended to achieve by publishing the caricatures. If the act was aimed at offending religious feelings and beliefs of Muslims, one has to assume that the limits of the freedom of expression were definitely overstepped. If, however, such pictures were to mean emitting a value-judgment on terrorism and on an Islamic organisation inspired by a religious belief that might provide a justification for terrorist activities, then it is to be assumed that no infringement of the freedom of expression on the part of journalists occurred.

We presume the caricature of Mohammed could not serve as a basis for the restriction of freedom of expression towards journalists as their publication did not overstep any limits of this freedom.

The European Court of Human Rights has elaborated an interpretation of Article 10 of the Convention according to which mass media play an important role in a democratic society; freedom of press gives a society one of the best tools to get acknowledged with public opinion regarding ideas and positions of political leaders. It is noteworthy that Secretary General of the UN Pan Gi Mun stated that terrorist attack on the magazine Charlie Hebdo had been an example of a direct threat to freedom of expression and had to be regarded as a hideous crime<sup>22</sup>.

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<sup>20</sup> Серед загиблих у редакції паризького журналу – головний редактор (Among killed in an editor’s office of a paris magazine was a chief editor), [www.espresso.tv/news/2015/01/07/sered\\_zahyblykh\\_u\\_paryzkomu\\_zhurnali\\_holovnyy\\_redaktor](http://www.espresso.tv/news/2015/01/07/sered_zahyblykh_u_paryzkomu_zhurnali_holovnyy_redaktor) [entry date 7.01.2015].

<sup>21</sup> Данський журнал, який теж публікував карикатури, посилив заходи безпеки через теракт у Франції. (Danish magazine which also published caricatures, strengthened preventive measures because of the terrorist attack in France), [www.espresso.tv/news/2015/01/07/danskyy\\_zhurnal\\_yakyy\\_tezh\\_publicuvav\\_karykatyry\\_posylyv\\_zakhody\\_bezpeky\\_cherez\\_terakt\\_u\\_franctiyi](http://www.espresso.tv/news/2015/01/07/danskyy_zhurnal_yakyy_tezh_publicuvav_karykatyry_posylyv_zakhody_bezpeky_cherez_terakt_u_franctiyi) [entry date 7.01.2015].

<sup>22</sup> Генсек ООН засудив стрілянину в Парижі: це напад на демократію. (Secretary General condemned an attack in Paris: it’s an aggression against a democracy), [www.espresso.tv/news/2015/01/07/hensek\\_oon\\_zasudyv\\_strilyanyu\\_v\\_paryzhi\\_ce\\_napad\\_na\\_demokratiyu](http://www.espresso.tv/news/2015/01/07/hensek_oon_zasudyv_strilyanyu_v_paryzhi_ce_napad_na_demokratiyu) [entry date 7.01.2015].



## Concluding remarks

The freedom of belief and freedom of expression as natural rights are independent from the state, possess natural, socially general character and constitute the prerequisite of human autonomy and self-determination.

The freedom of belief, perceived as a natural (socially general) human right, is an ability to act in a certain way or to refrain from doing so, pursuant to one's religion or a non-religious belief that fulfills a role comparable to the significance of religion in life of an individual in question.

The freedom of expression as a natural (socially general) human right – is a human ability to express thoughts and judgements about processes, events, facts of the reality in any available form. It includes the adoption of a certain attitude and value-judgment.

We assume that taking into account the development of a societies the discussed freedoms perceived as natural human abilities are sufficiently guaranteed in the major international documents on the protection of human rights that in turn fulfill the main substantial human achievements of the entire human beings existence.

Naturally, freedom of belief is most tightly connected with freedom of religion, however beliefs together with views and opinions are essential elements of human worldview. In this respect, they are intertwined.

## **Wolność sumienia i wolność uzewnętrzniania poglądów jako naturalne, ogólnospołeczne prawa człowieka: ich pojęcie i wzajemne korelacje**

### **Streszczenie**

W artykule sformułowano pojęcie wolności sumienia oraz wolności uzewnętrzniania poglądów jako naturalnych, ogólnospołecznych praw człowieka. Poddano analizie podstawowe dokumenty międzynarodowe, regulujące treść, strukturę wolności światopoglądu oraz wolności wyrażania opinii. Zbadano niektóre aspekty wzajemnego oddziaływania wymienionych wolności.

**Słowa kluczowe:** wiara, poglądy, wolność sumienia, wolność uzewnętrzniania poglądów, prawa naturalne.

## **On freedom of belief and freedom of expression as natural (socially general) human rights: its notion and correlation**

### **Summary**

In the article the notion of the freedom of expression and freedom of belief are defined as natural (socially general) human rights. Furthermore, the content and structure of free-

dom of expression and freedom of belief as set forth in the key international documents for the protection on human rights have been analysed. Some aspects of correlation between the abovementioned freedoms have been disclosed.

**Key words:** belief, view, freedom of belief, freedom of expression, natural rights.