

# Religious Discrimination

## *The Relationship Between Religion, Race and Ethnicity*

- Material scope of Directives:
  - Racial Equality Directive applies to discrimination in employment, social security, health care, social advantage, education and access to and supply of goods and services including housing
  - Employment Equality Directive applies to employment and occupation

## Religious Discrimination

- ethnicity is sometimes defined so as to include religious identity
- religious groups may be predominantly from one particular racial group
- some religious groups may understand religion to encompass issues such as cultural practices or rituals, that might otherwise be understood as linked to ethnic identity.

## Religious Discrimination

### Jewish Free School case – (2009)

- Admissions criteria based on orthodox rules were found to be discriminatory on grounds of race/ethnicity
  - Court confirms rules not racist
  - New criteria based on religious practice.

## Religious Discrimination

### Implications of Religion/ethnicity intersection

- Hierarchy of protection, with improved protection where religion and race interact.
- Justification standards for indirect religion and race discrimination may differ.
- Race/ethnicity discrimination cases may need to ensure adequate protection for Article 9 Freedom of Religion.



# Framing headscarf bans as religion based discrimination

- Direct discrimination?
- Indirect discrimination?
  - Disparate impact
  - Objective justification
- Article 2 section 5 Framework Directive



# Framing headscarf bans as sex based discrimination

- Direct discrimination?
- Indirect discrimination?
  - Disparate impact
  - Objective justification
- How much discretion for member states?





## Conclusion

- framing issues such as discussed as either discrimination on grounds of religion, race or sex could make a difference under the EU directives



## Points for discussion

- Would you agree with our analysis? (And what could you perhaps add by reference to the experiences in your own country?)
- If so, how problematic would you consider this to be?