Contents

- 14	ble of Cases	xiii
Ta	ble of Legislation	xxi
1	Introduction	1
1.		1
	I. National Identity Discourse in Europe	4
	II. National Identity and the ECJ: Setting the Scene	14
	III. Object and Purpose IV. Principled and Coherent Adjudication	16
	V. Methodology	30
	v. Wichiodology	
	PART I. THE ECJ'S DUTY TO RESPECT NATIONAL IDENTITY	
2.	A Legal Obligation to Respect National Identity	35
	I. Introduction	35
	II. Is the Identity Clause Law?	35
	III. The Identity Clause and the ECJ	63
3.	The Value of Respect for National Identity	81
	I. Introduction	81
	II. A Controversial Claim	82
	III. The Values Served by Respect for National Identity	93
	IV. Conclusion	112
4.	Respect for National Identity and European Integration	113
	I. Introduction	113
	II. Cosmopolitanism and Liberal Nationalism, Integration	
	and Accommodation in the Union's Basic Treaties	114
	III. Tensions Arising from Competing Strategies	117
	IV. A Third Way	119
	V. Conclusion	124
5.	The Meaning of the Identity Clause	127
	I. Introduction	127
	II. In Search of the Meaning of the Law	128
	III. The Conditional: The National Identities of the Member	
	States, Inherent in their Fundamental Structures	134
	IV. The Consequent: Respect	175

PART II. METHODS OF ADJUDICATION

6.		ional Identity and Primary EU Law: Methods Idjudication	195
	I.	Introduction	195
	II.	Revisiting the US Rules/Standards Debate	198
		A Case for Rule-Based National Identity Adjudication	
	111.	by the ECJ	210
	IV.	Conclusion	224
7.	Mei	mber State Federalism and Primary EU Law	226
	I.	The Optimal Trade-Off between Integration	
	1.	and Accommodation	226
	II.	The Optimal Method of Adjudication	229
		The ECJ Case Law	244
		Conclusion	252
8.	Coı	nstitutional Rights and Primary EU Law	254
	I.	The Optimal Trade-Off between Integration	
	1.	and Accommodation	254
	П	The Optimal Method of Adjudication	257
		The ECJ Case Law	272
		Conclusion	287
9.	Do	mestic Language Norms and Primary EU Law	288
	I.	The Optimal Trade-Off between Integration	
	1.	and Accommodation	288
	II.	The Optimal Method of Adjudication	290
		The ECJ Case Law	299
		Conclusion	316
10	.Na	tional Identity and Secondary EU Law	318
	I.	Introduction	318
	II.	A Plea for a More Careful Study of Statutory Interpretation	321
		Procedural Characteristics: Validity and Interpretation	323
		A Case for Rule-Based Legislative Interpretation	326
	17.	Statutory Interpretation and the US Supreme Court	332
			337
		Statutory Interpretation and the ECJ I.Conclusion	352
C	anch	usion	354
In	dex		359
111	NUN		