

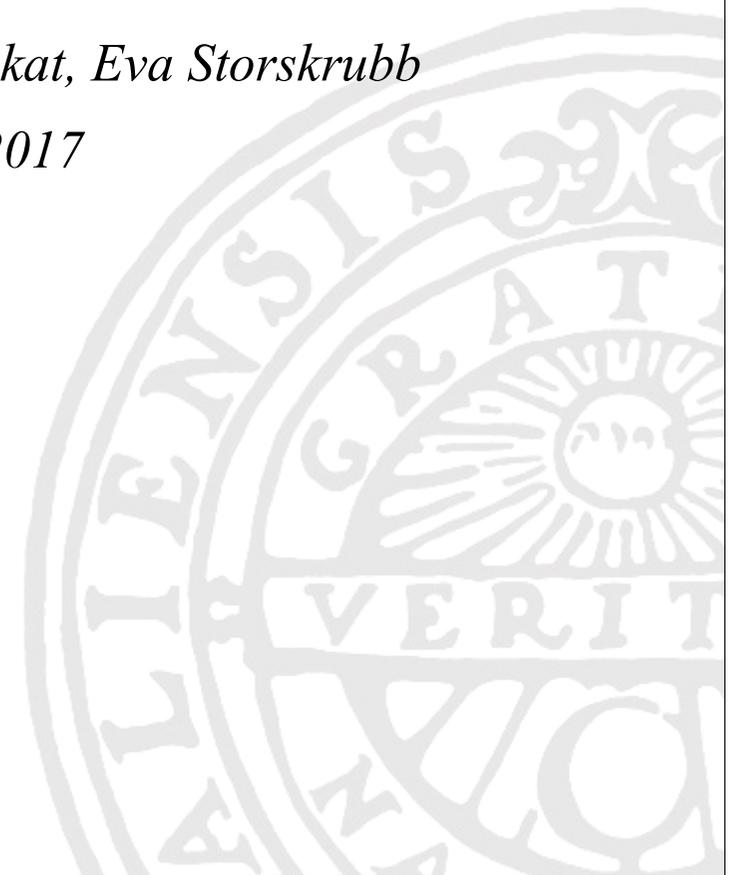


UPPSALA  
UNIVERSITET

# The ELI/Unidroit project on Civil Procedure

*Associate Prof. (Docent), Advokat, Eva Storskrubb*

*Kiel, October 2017*

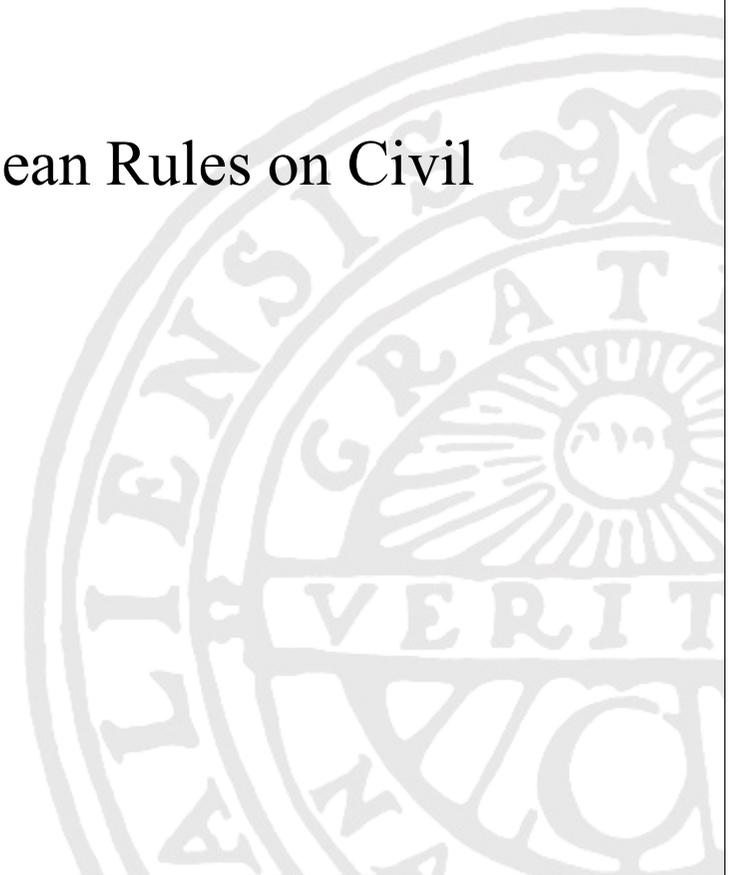




UPPSALA  
UNIVERSITET

# Outline

- 1 Broader Context
- 2 EU Strands of Development
- 3 Pressures and Triggers
- 4 ELI/Unidroit project European Rules on Civil Procedure





UPPSALA  
UNIVERSITET

# Disparate Developments

- (Domestic) dispute resolution
  - Procedural efficiency
  - Regulatory redress
  - Austerity
  - Digitalization
- EU specific
  - Constitutionalization
  - Regulatory fragmentation
  - Institutional ‘struggles’
  - Centralization and subsidiarity





# The Five Strands

## 1) "*Constitutional strand*"

- Article 47 of the EU Charter of Fundamental Rights states that everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal and is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law
- Article 19(1) of the Treaty on European Union (TEU) provides that the Member States shall provide sufficient remedies to ensure effective legal protection in the fields covered by Union law

## 2) "*Principles strand*"

- CJEU imposing from 1976 onwards the requirements and principles of equivalence and efficiency on national procedural rules
- The case law has highlighted the fact that enforcement of substantive rights under EU law is decentralized, entailing that enforcement relies on proceedings in national courts and hence on the national procedural and remedial rules



## The Five Strands cont.

### 3) "*Judicial cooperation strand*"

- Body of legislation enacted under Article 81 TFEU
- Introduced in the Treaty of Amsterdam under the general political project of the Area of Freedom, Security and Justice
- Initially, measures dealt with traditional aspects of private international law and international procedural cooperation, subsequent measures have gone further in breadth and depth and been innovative
- Cross-border limitation

### 4) "*Sectoral strand*"

- Procedural rules enacted for specific types of disputes in the context of substantive policy areas of the EU
- Recent developments have seen a surge of initiatives
- Focus on 'enforcement' or rather practical realisation of the substantive rights in the specific field
- Intellectual property, competition and consumer law fields



UPPSALA  
UNIVERSITET

## The Five Strands cont.

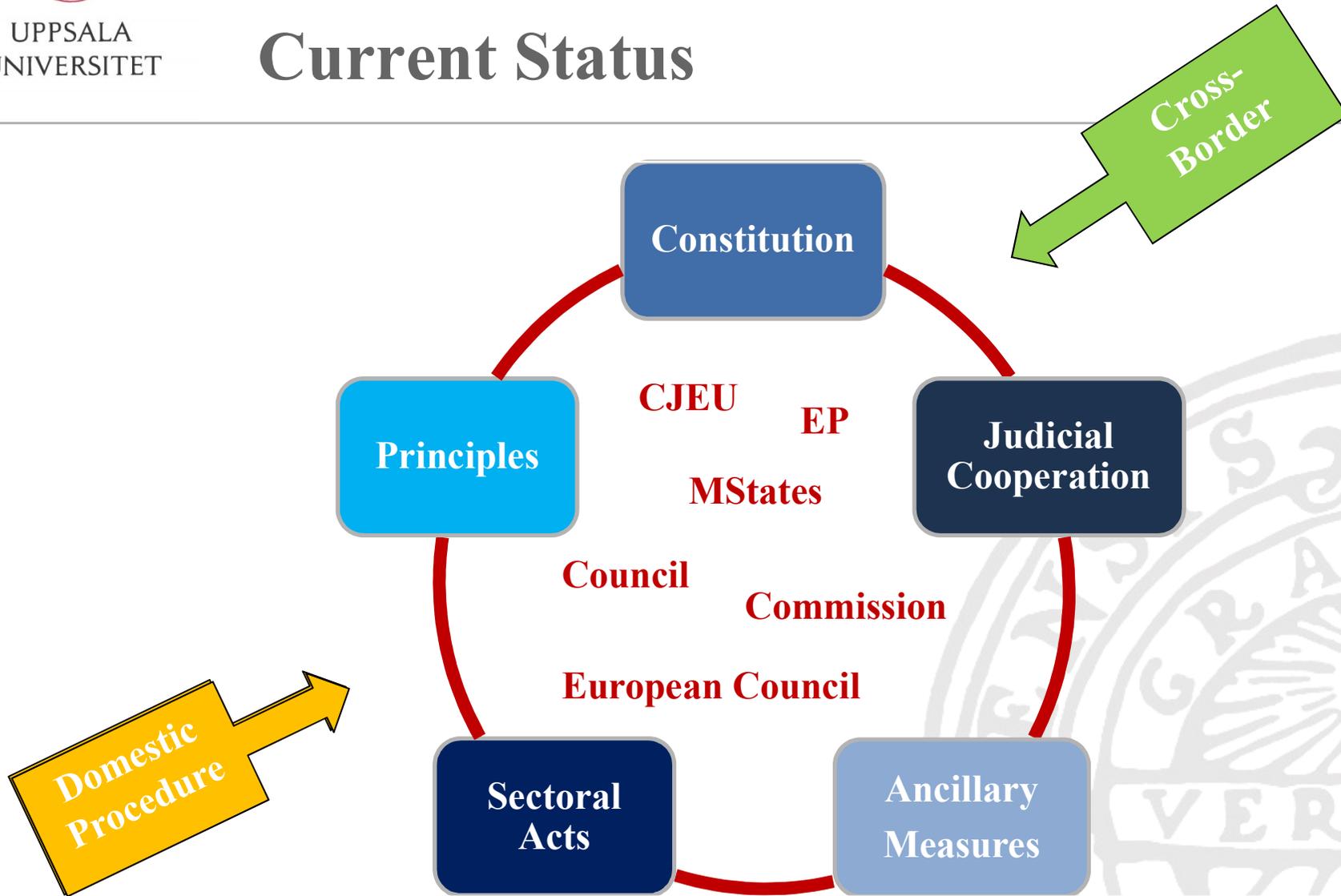
### 5) "*Overarching – Soft – Strand*"

- Networks, judicial training programmes and e-justice portal
- Justice Scoreboards



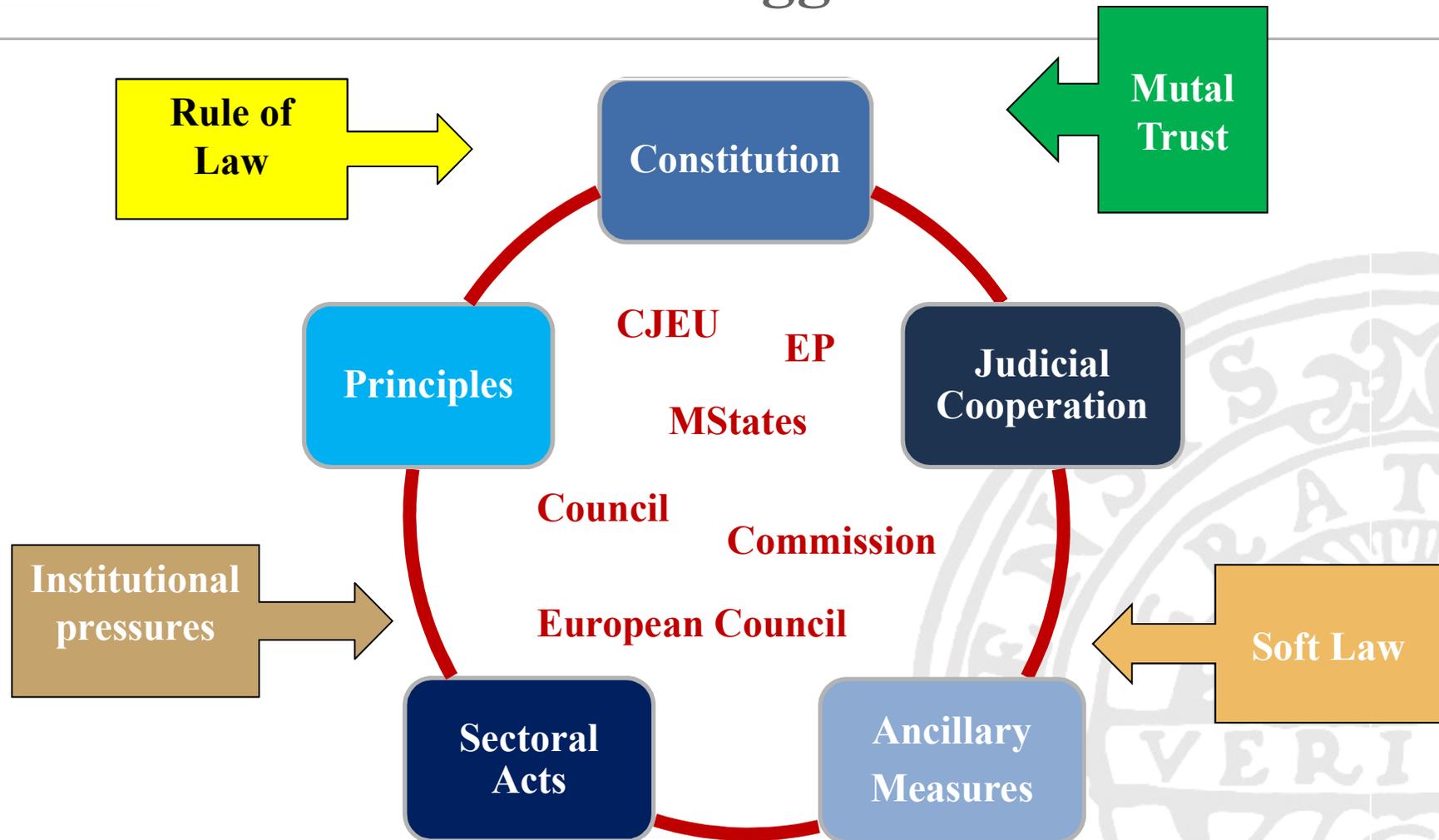


# Current Status





# Pressures and Triggers





# Soft Law

- Earlier projects and debate
- ELI/Unidroit since 2014
  - Result of first three WG public later this year
  - Other WGs continuing > 2019
  - Also consolidation process
- Approach
  - Not a minimum common solution project
  - Not necessarily a top-down process
- Some comments on service of documents
  - 1) Scope – moving the current thinking, moving the goal-posts
  - 2) Electronic service – striving to be modern but retain principled focus
  - 3) Connections and limitations – realism and pragmatism, focus on working system not necessary completely uniformity, respect for domestic level and current domestic structures