

FAIR TRIALS INTERNATIONAL



**The European
Supervision Order
(‘ESO’)**

This presentation is about:

- The European Supervision Order (ESO) Framework Decision (available from **1/12/2012**)
 - Objectives
 - How it is supposed to work
 - Possible problem areas & solutions

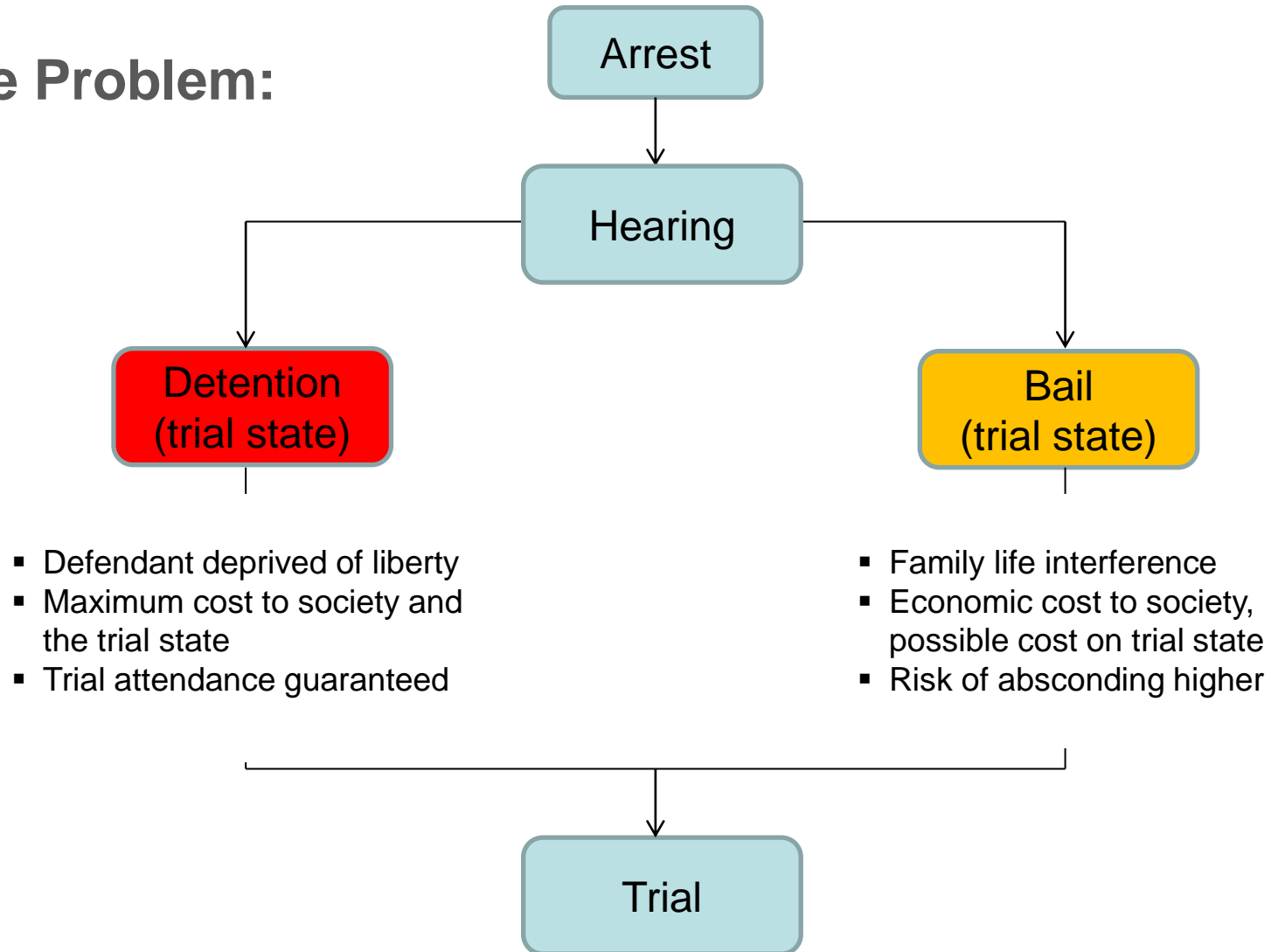
Most important message:

please **let us know** how the ESO is working in practice

The Problem:

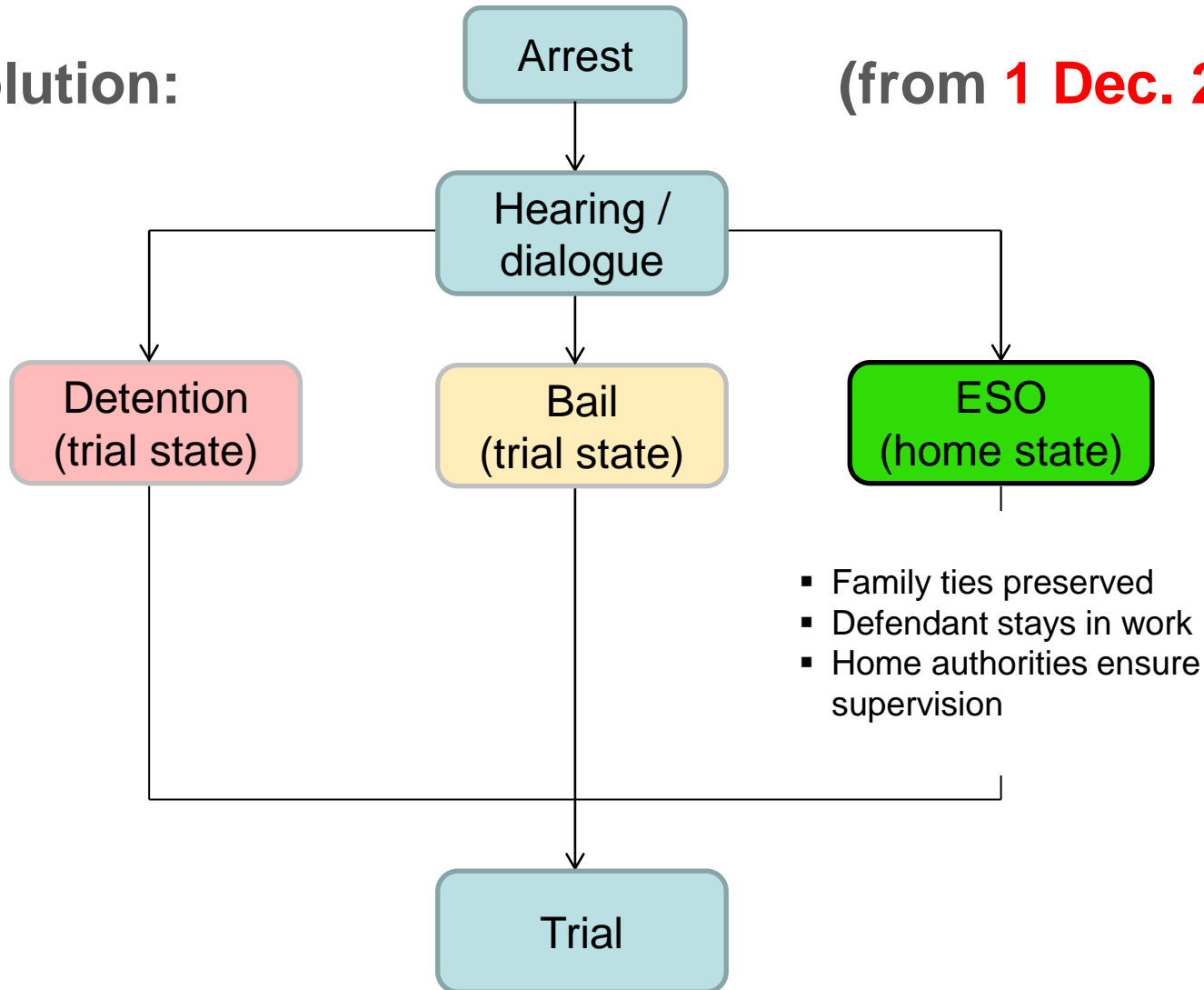
- FTI case study: **Andrew Symeou** (UK resident)
 - Surrendered to Greece in 2009
 - Detained for 10 months: absconding risk presumed (non-resident).
 - Eventually released provisionally: unable to return home on bail – had to suspend university studies.

The Problem:



The Solution:

(from **1 Dec. 2012**)



How it is supposed to work (1):

- Judicial authority in trial state issues ‘decision on supervision measures’
- Forwards it to the state of ‘lawful and ordinary residence’ (undefined – CJEU guidance?) with the person’s consent.
- Home state then *required* to recognise and enforce the decision, unless refusal grounds apply

How it is supposed to work (2):

- Some measures must be recognised:
 - reporting obligations; curfew / residence requirements; notifying of change of address
- Some measures need to be ‘accepted’ in advance on a once-and-for all basis:
 - drug treatment; prohibition on driving a vehicle; electronic monitoring

How it is supposed to work (3):

- In the event of breach of supervision measures in home state:
 - report forwarded to trial state, which takes a further decision
- Return to trial state supposed to be voluntary
- Otherwise, surrender in accordance with European Arrest Warrant Framework Decision.

Possible problems & solutions:

- Problem 1: Refusal to consider using the ESO?
- Please **let us know** if this is happening
- Solutions
 - Encourage dialogue with home state authorities
 - ECHR imposes obligation to consider all alternatives to detention – must consider whether measures would be effective if supervised at home

Possible problems & solutions:

- Problem 2: Non- / improper implementation
- Please **let us know** how it works in your state
- Solution
 - Argue for *Pupino* interpretation of national laws:
 - ‘lawful and ordinary residence’
 - criteria based on nationality?
 - refusal to ‘adapt’ supervision measures?

Possible problems & solutions:

- Problem 3: no opportunity to contest subsequent decision if supervision measures breached?
- Please **let us know** if this happens
- Solution
 - Make sure client knows to inform you
 - Work with lawyer in the home state?
 - Use procedures available under national law to contest report submitted by home state

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