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The Application of in Absentia in Tax Crimes and Fair Trial Standards: A PRISMA-Based Systematic Literature Review Contextualized in Supreme Court Decision No. 4811 K/Pid.Sus/2024

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ABSTRACT

The application of in absentia proceedings in tax crime cases raises significant normative concerns, as it involves balancing effective tax law enforcement with the protection of defendants' rights in criminal proceedings. Previous studies have examined trials in absentia, fair trial standards, due process, defense rights, and evidentiary issues in tax-related offenses. However, these discussions have remained fragmented and have rarely been synthesized within a comprehensive evaluative framework specifically addressing tax crime cases. This study aimed to systematically synthesize the legal principles governing in absentia proceedings, standards for protecting defendants' rights, and their application to special criminal offenses, particularly tax crimes, while contextualizing the analysis within Indonesian Supreme Court Decision No. 4811 K/Pid.Sus/2024. The study employed a systematic literature review guided by the Preferred Reporting Items for Systematic Reviews and Meta-Analyses (PRISMA) framework, examining Scopus-indexed articles selected through identification, screening, eligibility assessment, and inclusion, followed by a thematic legal synthesis. The findings indicated that in absentia proceedings could be justified only as an exceptional procedural mechanism when supported by a clear legal basis, effective notification, a knowing and voluntary waiver of the right to be present, adequate legal representation, meaningful access to evidence, and effective mechanisms for challenging or reviewing judicial decisions. In tax crime cases, these procedural safeguards were particularly important because evidentiary proceedings often involved complex technical documentation and specialized financial information, potentially creating procedural imbalances between the prosecution and the defendant. The study underscored the importance of strengthening normative and procedural safeguards to ensure that tax law enforcement remained consistent with fair trial guarantees, due process requirements, and the principles of the rule of law.

INTRODUCTION

The defendant's presence in criminal proceedings constitutes a fundamental safeguard of the right to a fair trial. By attending the proceedings, defendants can hear the charges against them, examine the evidence presented, challenge potentially prejudicial testimony or evidence, and present their defense directly before the court. Bernardini and Ancona (2023) emphasized that defendants' participation in trial proceedings is closely associated with the effective

exercise of defense rights. In contemporary criminal justice systems, the right to be present at trial is also recognized as an essential component of due process, which serves to constrain the state's exercise of prosecutorial and judicial authority and protect individuals against unfair criminal proceedings (Ažubalytė & Titko, 2022).

Nevertheless, criminal procedural law must also address circumstances in which defendants are absent, have absconded, or have knowingly and voluntarily waived their right to participate in trial proceedings. Accordingly, the legal literature generally recognizes trials in absentia as exceptional procedural mechanisms rather than standard criminal adjudication practices. (Zakerhossein & De Brouwer, 2015) argued that such proceedings are not inherently incompatible with the right to a fair trial, provided that essential procedural safeguards, including effective notification of the proceedings, access to legal representation, and appropriate mechanisms for challenging convictions or obtaining a retrial, are genuinely available to defendants.

The legal and procedural complexities become particularly pronounced when in absentia proceedings are applied to tax crimes, as these offenses involve not only individual criminal liability but also the protection of state revenue and the integrity of the fiscal system. The State of Tax Justice 2024 report estimated that countries worldwide lose approximately US$492 billion in tax revenue annually due to cross-border tax abuse. This substantial fiscal impact underscores the public interest in effective tax law enforcement. Nevertheless, the pursuit of fiscal effectiveness must not undermine defendants' procedural rights or compromise the fundamental guarantees of a fair trial (Petrila, 2026; Tax Justice Network, 2024). The estimated scale and composition of these global tax revenue losses are presented in Figure 1, illustrating the significant fiscal consequences associated with international tax abuse.

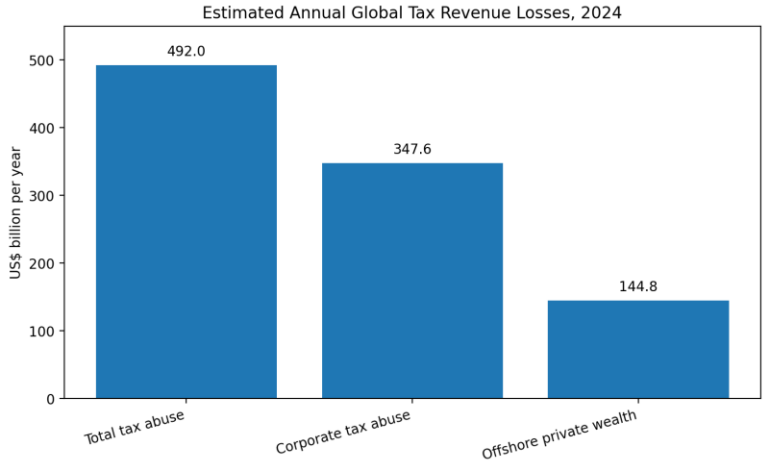


Figure 1. Estimated Global Tax Revenue Losses in 2024
Source: Tax Justice Network (2024)

Beyond these broader fiscal consequences, the application of in absentia proceedings in tax crime cases raises additional concerns regarding the complexity of evidentiary assessment. The evidentiary characteristics of tax crimes differ from those of conventional criminal offenses because tax-related cases frequently involve accounting records, transaction documents, financial statements, and the interpretation of tax obligations that may be difficult

to assess without explanations from the parties involved. In this context, (Djatmiko et al., 2025) identified challenges associated with establishing evidence in tax-related criminal proceedings, while (Dimić & Djukić, 2025) highlighted the significance of accounting records as evidence that may substantially influence judicial outcomes. Consequently, the defendant's absence may limit opportunities to clarify complex financial and tax-related facts, potentially affecting the comprehensiveness and reliability of evidentiary assessments.

Previous studies have demonstrated that debates concerning defendants' presence extend beyond conventional courtroom proceedings to include remote trials and various forms of virtual participation. Dubuc, (2024), for example, examined the implications of defendants' remote participation for fair trial standards before the International Criminal Court. Similarly (, Ballin & Castelijn, 2024) concluded that the use of videoconferencing may compromise defense rights when confidential communication between defendants and their legal counsel, as well as meaningful access to judicial proceedings, is not adequately safeguarded.

Other studies have indicated that technological advancements do not automatically resolve longstanding procedural concerns regarding defendants' participation in criminal proceedings. The central issue is not merely whether defendants are physically or virtually present but whether they can participate meaningfully and effectively in their defense. Žukovaitė (2024) examined the relationship between remote criminal proceedings and the protection of defendants' rights under European Union law, while Wheeler (2024) cautioned that conducting proceedings without meaningful defendant participation may undermine the substantive protection afforded by the right to be present at trial, even when formal procedural requirements appear to have been satisfied.

Within the literature specifically addressing in absentia proceedings, recent studies have emphasized the importance of distinguishing involuntary absence from a knowing and voluntary waiver of the right to be present at trial. Iugan (2025) compared the treatment of judgments rendered in absentia under the jurisprudence of the European Court of Human Rights and European Union law. Meanwhile, Tesfay (2024) and Yin (2024) demonstrated that national approaches to trials in absentia frequently raise concerns regarding effective notification, adequate legal representation, and the availability of mechanisms for reopening or reviewing proceedings when defendants subsequently become available to participate.

Previous research on economic and financial crimes is also relevant because tax offenses frequently involve technically complex, document-intensive evidence and sophisticated financial transactions. Rudenko et al. (2026) examined the use of covert investigative measures in economic crimes within customs administration, while Khalaileh et al. (2026) identified enforcement gaps in legislation addressing insider dealing. Furthermore, Pawelec (2023) demonstrated that corporate cooperation with prosecutorial authorities may create procedural risks for individuals when their defense rights are not adequately protected. Collectively, these studies highlight the importance of maintaining procedural safeguards in criminal proceedings involving complex economic and financial evidence.

Although these studies provide an important theoretical and empirical foundation, a significant research gap remains because discussions of in absentia proceedings, fair trial guarantees, due process, defense rights, and tax crimes have generally developed within separate bodies of legal scholarship. Some studies have primarily examined the legal requirements and procedural implications of trials in absentia, whereas others have focused on

defendants' participation in conventional or remote criminal proceedings. In contrast, research on tax crimes has predominantly addressed evidentiary complexities, investigative practices, and law enforcement mechanisms. Consequently, limited scholarly attention has been devoted to integrating these perspectives into a comprehensive normative framework for evaluating the compatibility of in absentia proceedings in tax crime cases with internationally recognized fair trial standards.

The urgency of this study arises from the need to establish clear normative boundaries that reconcile effective tax law enforcement with the protection of defendants' fundamental procedural rights under the rule of law. This concern is particularly relevant in tax-related criminal proceedings, where complex financial documentation, specialized evidentiary requirements, and potential disparities in institutional resources between prosecuting authorities and defendants may create significant procedural imbalances. Accordingly, fair trial standards should function not merely as formal procedural requirements but as substantive safeguards for evaluating the legality and proportionality of criminal proceedings, the adequacy of legal representation, and the effectiveness of defendants' opportunities to challenge the evidence presented against them (Bukenessov et al., 2024; Coffey, 2024).

Based on these considerations, this article addresses four research questions: (1) How does the Scopus-indexed literature conceptualize in absentia proceedings in criminal justice systems? (2) What fair trial, due process, and defense rights standards are applied to evaluate the legitimacy of such proceedings? (3) How does the existing literature address the application of in absentia procedures to special criminal offenses, particularly tax-related crimes? (4) How can the resulting normative synthesis inform an assessment of Indonesian Supreme Court Decision No. 4811 K/Pid.Sus/2024? Accordingly, this study aimed to conduct a systematic literature review guided by the Preferred Reporting Items for Systematic Reviews and Meta-Analyses (PRISMA) framework to develop a comprehensive normative framework for evaluating in absentia proceedings in tax crime cases from the perspective of fair trial guarantees and procedural justice.

Substantively, this article seeks to contribute to the development of criminal procedural law and tax criminal law by integrating findings from international legal scholarship with the normative assessment of judicial practices in Indonesia. In particular, it aims to provide a systematic framework for evaluating the compatibility of in absentia proceedings with defendants' procedural rights in tax-related criminal cases. Methodologically, the article demonstrates the potential application of PRISMA-guided systematic review procedures to normative legal research, provided that the selected literature is synthesized through rigorous thematic and legal analysis explicitly aligned with the research questions. This approach extends beyond the descriptive identification or quantitative enumeration of previous studies by emphasizing the critical interpretation, comparison, and integration of legal principles to support a coherent normative assessment.

METHOD

This study employed a systematic literature review (SLR) to examine scholarly literature on in absentia proceedings, fair trial standards, due process, defense rights, and the protection of defendants' rights in special criminal offenses, particularly tax crimes. The review was conducted to identify and synthesize relevant legal principles and procedural safeguards,

providing a normative framework for evaluating in absentia proceedings in tax-related criminal cases.

The review followed the Preferred Reporting Items for Systematic Reviews and Meta-Analyses (PRISMA) 2020 guidelines (Page et al., 2021), encompassing study identification, screening, eligibility assessment, and final inclusion. The selected literature was analyzed using thematic legal synthesis to identify recurring legal principles, procedural safeguards, and normative considerations relevant to in absentia proceedings. The synthesized findings were subsequently used to develop an evaluative framework for examining the compatibility of such proceedings with fair trial standards in tax crime cases.

Identification

The identification stage was conducted through a systematic search of the Scopus database. Scopus was selected because it provides broad coverage of reputable international journal articles and sufficient bibliographic metadata to support a transparent article selection process. The search was performed using the TITLE-ABS-KEY field with the following combination of keywords:

TITLE-ABS-KEY

(((("trial in absentia" OR "trials in absentia" OR "in absentia trial" OR "in absentia proceedings" OR "proceedings in absentia" OR "trial in absence" OR "judgment in absentia" OR "conviction in absentia" OR "absence of the accused" OR "absence of accused" OR "absent defendant" OR "right to be present" OR "presence of the accused" OR "waiver of presence") AND ("fair trial" OR "due process" OR "defence rights" OR "defense rights" OR "right to defence" OR "right to defense" OR "right to be heard" OR "right to counsel" OR "equality of arms" OR "procedural safeguards" OR "procedural fairness" OR "criminal procedure")) OR (("tax crime" OR "tax crimes" OR "tax fraud" OR "tax evasion" OR "tax offence" OR "tax offense" OR "fiscal fraud" OR "economic crime" OR "financial crime" OR "white collar crime" OR "corporate crime") AND ("fair trial" OR "due process" OR "defence rights" OR "defense rights" OR "right to defence" OR "right to defense" OR "right to be heard" OR "right to counsel" OR "equality of arms" OR "procedural safeguards" OR "procedural fairness" OR "criminal procedure" OR "criminal proceedings")))

The search string was designed to maintain a balance between search breadth and precision. If the keywords were too narrow, the search could yield very few studies because the literature that simultaneously addresses in absentia, fair trial, and tax crimes remains limited. Conversely, if the keywords were too broad, the search results could include many articles that were not relevant to criminal law and defendants' rights. Using this strategy, the initial Scopus search identified 142 records.

Records Removed before Screening

Before proceeding to the title and abstract screening stage, an initial cleaning process was conducted on the records retrieved from Scopus. This step was intended to ensure that only documents meeting the basic scope of the study were carried forward to the next stage. The following exclusion criteria were applied:

1. Documents were excluded if they were not research articles.
2. Documents were excluded if they were still classified as articles in press.
3. Documents were excluded if they were not written in English.

Screening: Records Screened and Records Excluded

The screening stage was conducted by reviewing the titles and abstracts of the identified articles. This stage aimed to assess the initial relevance of each article to the focus of the study without first conducting a full-text review. Articles were retained when their titles and abstracts indicated one or more of the following characteristics:

1. The article discusses trial in absentia, in absentia proceedings, absence of the accused, the right to be present, or related concepts.
2. The article addresses fair trial, due process, defence rights, the right to be heard, the right to counsel, equality of arms, or procedural safeguards in criminal proceedings.
3. The article examines special criminal offenses, economic crimes, financial crimes, white-collar crime, tax crime, tax fraud, or tax evasion in relation to criminal proceedings or defendants' rights.
4. The article is relevant to criminal law, criminal procedure, human rights in criminal justice, or normative and procedural legal studies.
5. The article has the potential to address at least one of the research questions.

Conversely, articles were excluded during the screening stage when their titles and abstracts were unrelated to criminal law or criminal proceedings. Articles that addressed taxation solely from the perspectives of tax administration, tax compliance, fiscal policy, tax audits, or tax reform, without any connection to criminal offenses, defendants' rights, or fair trial standards, were also excluded. In addition, articles were not carried forward to the next stage if they discussed fair trial or due process outside the criminal context, used the term in absentia in a context unrelated to criminal proceedings, examined economic or financial crimes without a criminal procedural dimension, or did not provide sufficient abstract information to assess their relevance.

Reports Sought for Retrieval

Articles that passed the screening stage were then identified as records requiring full-text retrieval. This stage was conducted to obtain the complete articles so that their substantive relevance could be assessed in greater depth. In an SLR, full-text review is important because the relevance of an article cannot always be determined solely from its title and abstract. An article may initially appear relevant but, after full-text examination, may only mention certain keywords briefly or may not provide arguments that can be used to address the research questions.

Full-text retrieval was conducted for articles included after the screening stage. Complete documents were searched through journal access, DOI links, publisher websites, and other academic sources that allowed access to the full text. Articles successfully retrieved in full-text form were then advanced to the eligibility stage. Articles for which the full text could not be obtained were recorded as reports not retrieved and were not assessed further for eligibility.

Reports Not Retrieved

During the full-text retrieval stage, some articles may not be available in complete form. Such articles cannot proceed to the eligibility stage because a substantive assessment cannot be conducted responsibly based only on the title and abstract. Without access to the full text, important information regarding the study objectives, methodological approach, jurisdictional context, main arguments, and findings cannot be adequately extracted.

If the full text of an article cannot be obtained, the article is excluded from the review process for the reason full text not retrieved. Recording this reason is important to maintain transparency in the PRISMA flow and to allow readers to distinguish between articles excluded because the full text was unavailable and those excluded because they did not meet the substantive eligibility criteria after full-text assessment.

Eligibility: Records Assessed for Eligibility and Full-text Excluded

The eligibility stage was conducted through a full-text review of the articles that were successfully retrieved. At this stage, the assessment was more rigorous than the title and abstract screening. Articles were retained when the full text contained substantive discussion meeting the following criteria:

1. The article was an empirical study or a normative legal study, rather than a conceptual paper or review article.
2. The article contained substantive discussion of trial in absentia, in absentia proceedings, absence of the accused, the right to be present, or related concepts in criminal proceedings.
3. The article provided substantive analysis of fair trial, due process of law, defence rights, the right to be heard, the right to counsel, equality of arms, or procedural safeguards in a criminal justice context.
4. The article examined special criminal offenses, economic crimes, financial crimes, white-collar crime, tax crime, tax fraud, or tax evasion, with a clear connection to criminal proceedings, evidentiary issues, defendants' rights, or procedural safeguards.
5. The article contained sufficient information that could be extracted for the data extraction table.
6. The article could be clearly mapped to at least one research question.

Articles that did not meet the criteria above after full-text assessment were excluded from the review.

Included: Total Studies Included in Review

At the final stage, articles that met all eligibility criteria were designated as the final studies included in the review. These studies had substantive relevance to the focus of the review, could be mapped to the research questions, and provided sufficient information for thematic analysis. The included studies were then analyzed using thematic legal synthesis. The synthesis was conducted by grouping the findings into several main themes, including the concept of in absentia in criminal procedure, fair trial standards, due process of law, defence rights, the protection of defendants' rights in special criminal offenses, and the relevance of the literature to tax crimes. The results of this synthesis were used not only to answer the three research questions based on the Scopus-indexed literature, but also to develop normative criteria for assessing the application of in absentia proceedings in Supreme Court Decision No. 4811 K/Pid.Sus/2024.

Data Extraction and Synthesis Technique

Data extraction was conducted for all studies included in the final review using a systematically developed extraction table. The extracted information included the authors and year of publication, article title, research objective, research method or approach, and the mapping of each article to the research questions. The extraction table is presented in the Appendix so that the Results section can focus on thematic synthesis rather than providing a descriptive summary of each individual article.

The synthesis technique used in this study was thematic legal synthesis. Through this technique, the articles were not merely classified according to the frequency of particular themes but were examined to identify patterns of legal reasoning, normative standards, and evaluative criteria emerging from the literature. The main themes used in the synthesis included the legal basis for in absentia proceedings, effective notification, the defendant's right to be present, waiver of presence, access to legal counsel, the right to defense, the quality of evidence, proportionality in restricting defendants' rights, corrective mechanisms after judgment, and the specific characteristics of tax crimes as technical, administrative, and document-based cases.

Through this approach, the study is expected to go beyond merely mapping the literature by developing a normative framework for assessing whether the application of in absentia proceedings is consistent with fair trial principles. The systematic review process illustrated in Figure 2 provides the methodological basis for developing this synthesis, which is subsequently used to contextualize the findings in relation to Supreme Court Decision No. 4811 K/Pid.Sus/2024. In this way, the connection between the SLR and the substantive focus of the study is maintained both methodologically and substantively.

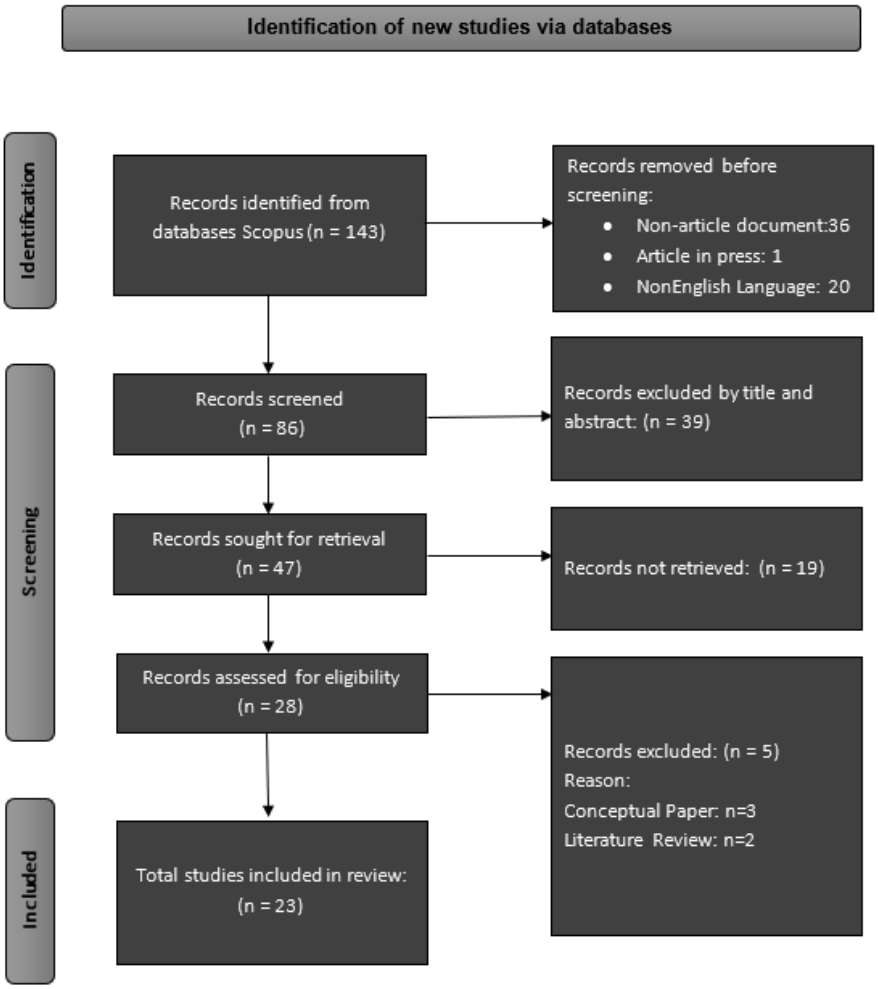


Figure 2. PRISMA 2020 Flow Diagram of the Study Selection Process
Source: Authors' elaboration based on the PRISMA 2020 flow diagram (Page et al., 2021).

As shown in Figure 2, the initial Scopus search identified 143 records. After removing 36 non-article documents, one article in press, and 20 non-English documents, 86 records proceeded to title and abstract screening. Of these, 39 records were excluded, leaving 47 articles for full-text retrieval. Nineteen articles could not be retrieved, resulting in 28 articles being assessed for eligibility. Five articles were subsequently excluded because they were conceptual papers (n = 3) or literature reviews (n = 2). Consequently, 23 studies met all eligibility criteria and were included in the final review.

RESULTS AND DISCUSSION

In Absentia as an Exception in Criminal Procedure, a Tool for Effective Law Enforcement, and an Issue of Defendants' Rights Protection (RQ1)

The extraction of data from the 23 included studies shows that not all articles directly address in absentia proceedings. Some studies examine closely related issues, such as remote participation, virtual presence, or the right to be present. These studies remain relevant because they help clarify the distinction between a defendant's absence and alternative forms of presence in criminal proceedings. Based on the data extraction, 11 articles make a substantive contribution to RQ1, particularly in explaining in absentia as an exception within criminal procedure, as a mechanism for maintaining the effectiveness of law enforcement, and as an issue closely related to the protection of defendants' rights. The main findings of these studies are summarized in Table 1.

Table 1. Main Findings on the Conceptualization of In Absentia in Criminal Procedure (RQ1)

Author	Main Finding for RQ1
Ballin & Castelijn (2024)	Videoconferencing is not *trial in absentia* but a limitation on physical presence. It is acceptable when the defendant can participate effectively and exercise defense rights.
Bernardini & Ancona (2023)	The right to be present requires effective participation, including the ability to examine witnesses and exercise defense rights, not merely physical attendance.
Dubuc (2024)	Virtual presence may constitute a valid form of participation when physical presence is not possible, provided that the defendant can still participate effectively.
Haiqing (2021)	China's *trial in absentia* procedure is a special mechanism for certain serious crimes, mainly to strengthen anti-corruption enforcement, fugitive recovery, and asset recovery.
Iugan (2025)	*Trial in absentia* may be compatible with fair trial standards if the defendant is properly notified, knowingly waives the right to be present, and has access to retrial or other remedies when necessary.
Shybiko (2021)	In Ukraine, *in absentia* is treated as a special criminal procedure for serious cases involving suspects who evade investigation or trial.
Sudirdja (2019)	In Indonesia, *trial in absentia* is permitted in money laundering cases under specific legal provisions but should not be extended to conventional predicate offenses.
Tesfay (2024)	Ethiopian law allows *trial in absentia* for certain grave and fiscal crimes, but important issues remain regarding summons, legal representation, appeal, and retrial.
Wheeler (2024)	Presence should be understood functionally: a defendant who cannot understand or participate effectively may be considered absent in substance despite being physically present.

Zakerhossein & De Brouwer (2015)	The article distinguishes *total* and *partial in absentia trials*. Total absence should generally be prohibited, while partial absence may be allowed with adequate safeguards.
Žukovaitė (2024)	Remote participation may be recognized as a valid form of presence when the defendant can see, hear, communicate, understand the proceedings, and exercise defense rights effectively.

As shown in Table 1, the concept of in absentia is not understood uniformly across the literature. Some studies describe it as an exceptional procedure that can only be justified when the defendant has been properly notified, is aware of the proceedings, and has knowingly and voluntarily waived the right to be present (Iugan, 2025; Tesfay, 2024). Other studies extend the discussion by distinguishing between total in absentia trials and partial in absentia trials, indicating that different forms of a defendant's absence do not necessarily have the same legal consequences (Zakerhossein & De Brouwer, 2015). In addition, the literature on virtual presence and remote criminal proceedings demonstrates that physical absence is not automatically equivalent to in absentia, provided that the defendant remains able to understand the proceedings, communicate with legal counsel, and effectively exercise the right to defense (Dubuc, 2024; Žukovaitė, 2024).

Fair Trial, Due Process, and Defense Rights Standards (RQ2)

RQ2 provides the broadest range of findings because all studies in the final corpus contribute, either directly or indirectly, to the discussion of fair trial, due process, and defense rights standards. Studies that explicitly address in absentia emphasize the defendant's right to be present, effective notification, a knowing and voluntary waiver, access to legal counsel, and the right to a retrial or other corrective remedy. Meanwhile, studies on evidence in tax crimes, economic crimes, covert investigations, and corporate cooperation with prosecutorial authorities extend these standards to issues such as the legality of evidence, proportionality, the presumption of innocence, the right to counsel, equality of arms, and protection against the arbitrary use of criminal procedures. The main findings related to these standards are summarized in Table 2.

Table 2. Main Findings on Fair Trial, Due Process, and Defense Rights Standards (RQ2)

Author	Main Finding for RQ2
Ažubalytė & Titko (2022)	Remote criminal trials may be compatible with *fair trial* standards only when the defendant's presence, right to be heard, defense rights, confidential communication with counsel, and meaningful access to evidence are effectively protected.
Ballin & Castelijn (2024)	Videoconferencing may restrict the right to attend proceedings and defense rights. Such limitations require safeguards, including secure technology, confidential legal communication, access to documents, and judicial assessment.
Bernardini & Ancona (2023)	Restrictions on defense rights must be lawful, necessary, and proportionate. Untested witness evidence should not become the sole or decisive basis for conviction without adequate counterbalancing safeguards.
Bianda et al. (2026)	Due process in asset forfeiture requires fair and transparent procedures, clear evidentiary standards, proportionality, effective oversight, and protection for innocent third parties.
Bukenessov et al. (2024)	Tax crime proceedings should protect the accused's procedural rights, access to defense counsel, compliance with procedural rules, and fair judicial evaluation of evidence.

Coffey (2024)	Fundamental procedural rights, including *ne bis in idem*, may only be restricted when the limitation is lawful, foreseeable, proportionate, and preserves the essence of the right.
Dimić & Djukić (2025)	Tax crime adjudication must respect the presumption of innocence, burden of proof, lawful evidence, and expert examination linking the conduct, fault, and tax loss.
Djatmiko et al. (2025)	Due process in tax crimes requires lawful evidence, judicial conviction, and a genuine opportunity for defendants to explain their actions, rather than excessive reliance on formal documentary evidence.
Dubuc (2024)	Virtual proceedings must preserve effective participation, legal assistance, confidential communication with counsel, understanding of the proceedings, and freedom from technical barriers.
Haiqing (2021)	*Trial in absentia* requires legal aid, defense representation, appeal and objection rights, and clear rules on service, jurisdiction, judgments, property disposal, and penalties.
Iugan (2025)	Fair *in absentia* proceedings require effective notification, awareness of the consequences of absence, voluntary waiver, legal representation, and access to retrial or another effective remedy.
Jasiński (2024)	Due process requires the presumption of innocence, burden of proof, the right to remain silent, protection against self-incrimination, and effective procedural remedies.
Khalaileh et al. (2026)	Enforcement of financial crimes must be based on clear legal definitions, proportional sanctions, defense rights, institutional independence, and protection against double proceedings.
Pawelec (2023)	Corporate cooperation with prosecutors must protect individuals against self-incrimination, coercion, unlawful threats, and misuse of information obtained without adequate procedural safeguards.
Petrila (2026)	Evidence from tax proceedings must undergo judicial review for legality, admissibility, and proportionality before being used in criminal proceedings, while preserving defense rights and the presumption of innocence.
Rudenko et al. (2026)	Covert investigative evidence requires prior judicial authorization, proper documentation, proportionality, and procedural safeguards; unlawfully obtained evidence should be excluded.
Shestak et al. (2020)	Pre-procedural investigations of economic crimes require legality, legal certainty, judicial supervision, transparency, impartiality, and protection of constitutional rights.
Shybiko (2021)	Special *in absentia* proceedings must preserve access to justice, judicial control, adversarial proceedings, and the defendant's right to challenge evidence when participation becomes possible.
Sudirdja (2019)	*In absentia* proceedings must comply with formal legality and due process, including clear statutory authority and protection against arbitrary or improperly extended criminal procedures.
Tesfay (2024)	Fair *in absentia* proceedings require advance notice, personal summons, legal counsel, cross-examination, defense evidence, appeal, retrial, and protection against self-incrimination.
Wheeler (2024)	Fair trial requires effective participation and mental fitness, not merely physical presence. Proceedings should not continue when the defendant cannot understand or meaningfully participate in the trial.
Zakerhossein & De Brouwer (2015)	*In absentia* is compatible with fair trial standards only when effective defense, equality of arms, legal counsel, valid waiver, and access to retrial are adequately protected.
Žukovaitė (2024)	Remote criminal proceedings must ensure effective participation, access to counsel, confidential communication, consent, reliable audiovisual interaction, and safeguards preventing technology from weakening defense rights.

As shown in Table 2, fair trial standards are concerned not only with the defendant's physical presence but also with the quality of the defendant's participation in the evidentiary process. Several studies emphasize that proceedings conducted without the defendant's physical presence, including through videoconferencing, may still be acceptable as long as the defendant can effectively follow the proceedings, communicate confidentially with legal counsel, access relevant documents, and examine witness testimony (Ballin & Castelijn, 2024; Dubuc, 2024; Žukovaitė, 2024). In the context of tax and economic crimes, due process standards place greater emphasis on the legality and quality of evidence, particularly when evidence is derived from tax audits, accounting records, covert investigative measures, or corporate cooperation with prosecutorial authorities (Dimić & Djukić, 2025; Djatmiko et al., 2025; Petrila, 2026; Rudenko et al., 2026). Accordingly, fair trial in this context encompasses procedural legality, the effectiveness of the defense, and a proper balance between the state and the defendant.

In Absentia in Special Criminal Offenses (RQ3)

The findings for RQ3 show that 14 articles are relevant to special criminal offenses, including tax crimes, money laundering, economic crimes, financial crimes, corruption, customs-related offenses, and capital market crimes. This finding is important because the SLR does not treat in absentia solely as an issue of general criminal procedure, but also connects it with the specific characteristics of offenses that are technical, document-centered, and often involve significant public interests. In this context, the literature shows that effective law enforcement in special criminal offenses may require more adaptive procedures, but such procedures must remain subject to evidentiary standards, legality, and the protection of defendants' rights. The main findings related to these issues are summarized in Table 3.

Table 3. Main Findings on In Absentia and Procedural Safeguards in Special Criminal Offenses (RQ3)

Author	Main Finding for RQ3
Bianda et al. (2026)	Asset forfeiture in corruption and money laundering cases can support asset recovery, but it must be limited by evidentiary legality, oversight, transparency, and protection of third-party rights.
Bukenessov et al. (2024)	Tax evasion cases rely heavily on accounting and tax documents, expert evidence, and transaction tracing. Clearer evidentiary rules are needed to balance enforcement with defendants' protection.
Coffey (2024)	Transnational financial crimes create tension between effective enforcement and protection against multiple prosecutions, requiring careful limits on repeated criminal proceedings.
Dimić & Djukić (2025)	Accounting records, tax audits, and expert assessments are central to proving tax evasion, but weak documentation can undermine the criminal case and lead to acquittal.
Djatmiko et al. (2025)	Tax crimes often depend on formal documentary evidence, but such evidence must still be critically assessed to avoid weakening defendants' procedural rights.
Haiqing (2021)	In China, *trial in absentia* is used in certain serious offenses, especially corruption, to improve enforcement and asset recovery, but it still requires adequate defense and appeal safeguards.
Khalaileh et al. (2026)	Financial crime enforcement requires clear legal definitions, proportionate sanctions, coordinated institutions, and due process safeguards to ensure legitimate prosecution.

Pawelec (2023)	Corporate cooperation with prosecutors may improve enforcement of white-collar crime, but it can also threaten individual rights if internal investigations bypass criminal procedure safeguards.
Petrila (2026)	Evidence from tax audits and administrative proceedings must be tested for legality and admissibility before being used in criminal tax cases.
Rudenko et al. (2026)	Covert investigations in customs and economic crimes require judicial oversight, proportionality, proper documentation, and admissibility safeguards to ensure lawful evidence.
Shestak et al. (2020)	Economic crime investigations require strong institutional coordination, but unclear pre-procedural models can weaken legal certainty and procedural safeguards.
Shybiko (2021)	Ukraine uses *in absentia* for certain serious and special crimes, but its application must remain subject to due process, judicial guarantees, and the defendant's right to defense.
Sudirdja (2019)	In money laundering cases, *in absentia* may support prosecution and asset recovery, but it should remain procedurally separated from conventional predicate offenses to protect due process.
Tesfay (2024)	Ethiopian law permits *in absentia* for certain fiscal crimes, but its use must be limited by summons, personal service, legal representation, and access to retrial.

As shown in Table 3, tax and economic crimes present specific challenges because their evidentiary processes rely heavily on documents, accounting records, audit reports, transactions, and expert testimony. Studies on tax crimes indicate that administrative evidence should not be transferred directly into criminal proceedings without careful assessment of its legality and relevance (Dimić & Djukić, 2025; Petrila, 2026). Meanwhile, studies on money laundering, customs-related crimes, and corporate crimes highlight the need to balance effective prosecution and asset recovery with the procedural protection of defendants (Pawelec, 2023; Rudenko et al., 2026; Sudirdja, 2019). Therefore, the findings for RQ3 confirm that the application of in absentia in special criminal offenses should not be assessed solely in terms of efficiency, but within a broader framework of procedural legality, proportionality, evidentiary quality, and the defendant's right to an effective defense.

Discussion

In Absentia as an Exceptional Mechanism in Criminal Procedure

The findings for RQ1 demonstrate that in absentia should not be understood as an ordinary criminal procedure, but rather as an exceptional mechanism that may only be permitted under specific circumstances. The distinction between total in absentia trials and partial in absentia trials is important because different forms of a defendant's absence do not necessarily have the same legal consequences (Zakerhossein & De Brouwer, 2015). In this context, in absentia should not be understood merely as the defendant's physical absence from the courtroom, but rather as a question of whether the defendant has lost the ability to know, understand, and respond to the criminal proceedings conducted against him or her.

The application of in absentia also involves a continuing tension between effective law enforcement and the protection of defendants' rights. Several jurisdictions permit trial in absentia in particular cases, such as grave crimes, fiscal crimes, or cases involving defendants who have fled. However, such proceedings remain subject to requirements concerning effective notification, legal representation, and adequate corrective remedies (Iugan, 2025; Tesfay, 2024; Yin, 2024). Therefore, in absentia cannot be justified merely because a defendant is absent.

Courts must still determine whether the absence constitutes a knowing, voluntary, and valid waiver of the right to be present.

Recent developments also show that in absentia increasingly intersects with remote participation and virtual presence. Klip (2024) demonstrates that the meaning of the right to be present has begun to expand in the context of online participation, although such an expansion must remain subject to safeguards ensuring effective participation. Accordingly, physical absence is not automatically equivalent to in absentia when the defendant remains able to see, hear, and understand the proceedings, communicate with legal counsel, and meaningfully exercise defense rights (Dubuc, 2024; Sobański, 2024; Wheeler, 2024; Žukovaitė, 2024). From this perspective, the substantive quality of the defendant's presence is more important than the form in which that presence occurs.

Fair Trial, Due Process, and Defense Rights as Procedural Limits

The discussion of RQ2 shows that fair trial functions as a standard for assessing all forms of restrictions on the defendant's presence and participation. Restrictions on physical presence can only be justified when they are based on a clear legal basis, pursue a legitimate aim, are proportionate, and are supported by technical safeguards that allow the defendant to participate effectively in the proceedings (Ažubalytė & Titko, 2022). Therefore, fair trial should not be understood merely as formal compliance with procedural rules, but as a guarantee that the defendant has a genuine opportunity to understand the charges, examine the evidence, and present a defense.

These standards become even more important when linked to defense rights. The defendant's right to be present is directly connected to the ability to examine witnesses, challenge adverse testimony, and maintain a fair balance between the prosecution and the defense (Bernardini & Ancona, 2023; Cabiale, 2023). Pivaty and Soo (2019) emphasize that access to case materials during the pre-trial stage is essential for maintaining equality of arms, particularly when a case is built on documentary and technical evidence. Accordingly, criminal proceedings that rely on significant evidence without providing adequate defense access may raise serious concerns regarding the quality of procedural fairness.

In the context of judicial technology, fair trial standards become more complex because the quality of the defendant's participation depends heavily on communication facilities, the confidentiality of consultations with legal counsel, and the technical ability to follow the proceedings. The use of videoconferencing may be acceptable when it does not reduce the quality of the defense, but it may become problematic when the defendant is only visually present without effective, confidential, and equal communication with counsel (Ballin & Castelijn, 2024; Dubuc, 2024; Žukovaitė, 2024). Caianiello (2019) also identifies technological developments in criminal proceedings as a challenge to fundamental evidentiary principles, meaning that technological efficiency should not replace the protective function of defendants' rights.

Accordingly, due process in the context of in absentia requires three layers of protection. First, the state must demonstrate that the defendant was properly summoned and was aware of the criminal proceedings. Second, when the defendant is absent, the proceedings must still ensure an effective defense through legal counsel, access to evidence, and a meaningful opportunity to challenge the case. Third, when the defendant was unaware of the proceedings or did not knowingly waive the right to be present, a retrial, fresh determination,

or another effective legal remedy must be available (Iugan, 2025; Jasiński, 2024; Tesfay, 2024). Under this framework, fair trial serves as an operational standard for determining whether in absentia proceedings remain consistent with the rule of law.

The Complexity of Special Criminal Offenses and the Risk of Weakening Defendants' Rights

The findings for RQ3 show that special criminal offenses, particularly tax crimes, have evidentiary characteristics that differ from those of conventional criminal offenses. Tax cases often rely on documents, accounting records, invoices, audit reports, financial statements, and interpretations of fiscal obligations (Dimić & Djukić, 2025; Djatmiko et al., 2025). Therefore, the defendant's absence in a tax crime case does not merely mean that the defendant is not physically present in the courtroom; it may also eliminate the opportunity to explain the context of transactions, respond to fiscal interpretations, and challenge the state's administrative construction of the case.

This problem becomes more significant because special criminal offenses usually involve substantial public interests. The state has an interest in protecting tax revenue, pursuing asset recovery, and preventing the concealment of criminal proceeds. However, these enforcement objectives must not override procedural safeguards. Evidence obtained from tax audits, administrative reports, or investigative measures should not be transferred mechanically into criminal proceedings without assessing its legality, relevance, proportionality, and consistency with the protection of defendants' rights (Pawelec, 2023; Petrila, 2026; Rudenko et al., 2026). In this context, the effectiveness of law enforcement must remain subject to the requirements of criminal procedure.

The literature on special criminal offenses also demonstrates that the complexity of these cases can increase the risk of an imbalance between the state and the defendant. Proving tax evasion by legal entities requires clear evidentiary rules to maintain a proper balance between the state's interests and the protection of business actors and defendants (Bukenessov et al., 2024). At the same time, transnational financial crimes, capital market offenses, and money laundering cases show that expanded enforcement powers may create problems involving multiple prosecutions, uncertainty in evidentiary standards, and potential pressure on individuals dealing with state institutions or large corporations (Coffey, 2024; Khalaileh et al., 2026; Pawelec, 2023).

Accordingly, the application of in absentia in special criminal offenses should be assessed under stricter standards than those applied in ordinary criminal cases. The technical, document-centered, and asymmetric nature of these cases gives substantial importance to the defendant's right to be present and to defend against the charges. When the defendant is absent, the court must ensure that the evidence remains subject to adversarial examination, that defense counsel has sufficient access to the case materials, and that the defendant's absence does not transform the criminal process into a one-sided proceeding controlled entirely by the state.

Contextualization of Supreme Court Decision No. 4811 K/Pid.Sus/2024

The synthesis of RQ1 to RQ3 can be used as an evaluative framework for examining Supreme Court Decision No. 4811 K/Pid.Sus/2024 from a fair trial perspective. This framework assesses not only whether in absentia proceedings have a formal legal basis, but also whether their application meets standards for protecting defendants' rights, particularly effective notification, the defendant's awareness of the case, the quality of legal representation,

access to evidence, the opportunity to present a defense, and the availability of corrective mechanisms after judgment (Iugan, 2025; Tesfay, 2024; Zakerhossein & De Brouwer, 2015). Therefore, the analysis should not stop at the question of whether the defendant was present or absent, but should also examine whether the absence still preserved the substance of procedural fairness.

In tax crime cases, the evaluation of the decision should pay particular attention to the document-centered nature of the evidentiary process. When a case is built on tax documents, accounting records, audit reports, or fiscal administrative interpretations, the defendant's right to be present and to defend against the charges becomes more than a procedural formality. The adjudication of tax crimes depends heavily on the quality of documentation, the legality of evidence, and technical explanations of the disputed transactions (Dimić & Djukić, 2025; Djatmiko et al., 2025; Petrila, 2026). Accordingly, the defendant's absence should be assessed in terms of whether an effective defense remains possible or whether the evidentiary process becomes one-sided.

The contextualization of Supreme Court Decision No. 4811 K/Pid.Sus/2024 should also distinguish between in absentia proceedings that are formally lawful and those that are substantively fair. Wheeler (2024) warns that proceedings resembling a trial without the defendant's effective participation may amount to a de facto trial that weakens the meaning of the right to be present. In the Indonesian context, the use of technology-based procedures or special procedures in criminal trials may also create a risk of miscarriage of justice when they are not supported by a clear legal basis, adequate technical facilities, and sufficient defense safeguards (Nelson et al., 2023). Therefore, national standards should still be assessed through a framework that treats the defendant's participation as a substantive element of justice.

Based on this synthesis, Supreme Court Decision No. 4811 K/Pid.Sus/2024 can be examined through several evaluative questions. Was the defendant genuinely aware of the ongoing criminal proceedings? Was the summons carried out effectively? Did the defendant knowingly and voluntarily waive the right to be present? Did defense counsel have sufficient access to prepare and present the defense? Was the tax-related evidence subject to adversarial examination? Was an effective corrective mechanism available if the defendant's absence did not result from a valid waiver? If all of these elements were satisfied, the use of in absentia may be regarded as a procedural exception that remains within the boundaries of a fair trial. Conversely, if these safeguards were not satisfied, the use of in absentia in tax crime proceedings risks shifting from a mechanism for effective law enforcement into a restriction on the defendant's right to an effective defense.

Implications

This article provides a theoretical implication that in absentia should not be understood merely as the defendant's physical absence, but rather as an issue concerning the quality of the defendant's participation in criminal proceedings. From the perspectives of fair trial, due process, and defense rights, the defendant's presence should be associated with the ability to understand the case, examine the evidence, communicate with legal counsel, and exercise defense rights effectively. Therefore, this article reinforces the view that in absentia should only be accepted as an exceptional procedure subject to clear legality, effective notification, a valid waiver, adequate defense, and appropriate corrective mechanisms.

From a practical and normative perspective, the findings of this study can serve as an evaluative framework for judges, prosecutors, defense counsel, and policymakers in assessing the application of in absentia in tax crime cases. Because tax cases rely heavily on documents, accounting records, audit reports, and fiscal constructions, courts must ensure that the defendant's absence does not turn the evidentiary process into a one-sided proceeding. In this way, the effectiveness of tax law enforcement can be maintained without compromising the rule of law, proportionality, and the protection of defendants' rights.

CONCLUSION

This study concluded that in absentia proceedings in tax crime cases should be regarded as exceptional procedural mechanisms whose legality and legitimacy depend on compliance with substantive fair trial guarantees. The synthesis demonstrated that the application of in absentia proceedings should be evaluated against several essential safeguards, including a clear legal basis, effective notification, the defendant's awareness of the proceedings, a knowing and voluntary waiver of the right to be present, access to legal representation and evidence, and a meaningful opportunity to present a defense. In the context of Indonesian Supreme Court Decision No. 4811 K/Pid.Sus/2024, the proposed normative framework provides a basis for assessing whether in absentia proceedings adequately balance the effectiveness of tax law enforcement with the protection of defendants' fundamental procedural rights.

This study was limited by its exclusive reliance on the Scopus database, which may have excluded relevant publications indexed in other databases, analyses of additional national court decisions, and broader Indonesian legal scholarship. Furthermore, the research emphasized systematic literature synthesis and normative contextualization rather than a comprehensive doctrinal examination of all legal considerations underlying Supreme Court Decision No. 4811 K/Pid.Sus/2024. Future research should investigate comparative legal approaches to trials in absentia across different jurisdictions, examine Indonesian judicial decisions involving in absentia proceedings in special criminal offenses, and conduct empirical investigations into the practical application of these procedures in tax crime cases from the perspectives of judges, prosecutors, and defense counsel. Such investigations could provide further insights into the effectiveness of procedural safeguards and contribute to the development of a more comprehensive legal framework for protecting defendants' rights while maintaining effective tax law enforcement.

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CONFLICT OF INTEREST

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AUTHOR CONTRIBUTIONS

All authors contributed to the preparation of this article. The first author, **Paduanta Hutahayan**, was responsible for the conceptualization of the study, data collection and

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GENERATIVE AI STATEMENT

The authors declare that no generative artificial intelligence was used in the preparation of this article.

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