

The Historical and Legal Development of Pre-Trial Investigation Procedures in The Criminal Process of Uzbekistan

Khidoyatov Bakhtiyar Batirovich

Professor, Doctor of Philosophy in Legal Sciences, Department of Criminal Procedural Law, Tashkent State University of Law, 12.00.00
– Judicial sciences, Uzbekistan

Received: 29 June 2025; **Accepted:** 25 July 2025; **Published:** 27 August 2025

Abstract: This article presents a comprehensive, chronological analysis of the evolution of pre-trial proceedings within the criminal process of Uzbekistan. It systematically examines the historical origins and development of pre-investigation procedures, inquiries, and preliminary investigations. The study critically evaluates the effectiveness of different forms of pre-trial criminal procedures across various historical periods. Furthermore, it substantiates the necessity for the introduction of novel legal mechanisms aimed at enhancing the regulation and efficiency of pre-investigation checks, inquiries, and preliminary investigations, thereby contributing to the optimization of the criminal justice process.

Keywords: Pre-trial proceedings; inquiry processes; retrospective and historical analysis; inquiry procedures; preliminary and full-scale investigations; procedural control and supervision; criminal procedure law; prosecutorial functions and powers; procedural instruments and mechanisms; legal limits and boundaries of criminal investigation; efficiency of pre-trial measures; regulatory and institutional framework of criminal justice; evolution of investigative practices.

Introduction: In the territory of present-day Uzbekistan, that is, in the former Turkestan region, the principles of the Russian Judicial Statutes of 1864 were introduced, leading to the establishment of prosecutorial supervision and investigative bodies. The investigation process was carried out in two forms — inquiry and preliminary investigation. However, in practice, inquiries often replaced preliminary investigations, as the Tsarist government, in pursuit of protecting its own interests, sought primarily to combat progressive elements. For this purpose, it preferred not to rely on full preliminary investigations, but rather on inquiries — an expedited form of investigation followed by referral to the courts. To implement this, the Tsarist authorities relied on officials of the Turkestan Security Department of the Ministry of Internal Affairs and the gendarme-police administrations of the cities [1].

After the October Revolution, in order to preserve the revolutionary order and combat counterrevolution, an

Investigative-Legal Department was established, which became the first body of preliminary investigation.

Pre-trial proceedings were first regulated in the 1918 Instruction of the NKVD and NKYu on the organization of the Soviet workers' and peasants' militia. Article 27 of this Instruction assigned the task of conducting inquiries into criminal offenses to the Soviet militia. The scope of its investigative activities was defined in Article 28 of the same document. Under the guidance and directives of judges and investigative commissions, the militia was entrusted with carrying out searches and inquiries in criminal cases. In the concluding part of Article 27, it was emphasized that militia officials, when conducting inquiries, were required to adhere to the relevant decisions of the workers' and peasants' government [2].

Thus, the militia became the body entrusted with the function of preliminary inquiry in the Soviet criminal process. Although the number of investigative actions it was authorized to conduct was limited to only three

(search, seizure, and inspection), this nonetheless laid the foundation for the modern principle of inquiry — namely, the conduct of urgent investigative actions by inquiry bodies [3].

The resolution of issues related to improving the quality of investigation during that period was directly connected with the establishment and functioning of the courts. Accordingly, the competence for conducting investigations was assigned to people's judges. Thus, in accordance with the first republican act on people's judges — the "Instruction on the Organization of Local People's Courts and Their Activities," adopted on 16 November 1918, investigations in cases under the jurisdiction of local people's courts were entrusted to the judge; while in more complex cases heard with the participation of six people's assessors in the people's court, as well as in cases falling under the jurisdiction of district courts, the investigation was carried out by investigative commissions composed of three persons established under the Decree on the Second Court.

Furthermore, under the Regulation on the People's Court of 30 November 1918, preliminary investigations in criminal cases considered by the people's court with the participation of six people's assessors were entrusted to district and city investigative commissions. For other criminal cases, the people's court could either rely on the inquiry conducted by the militia or refer the case to an investigative commission for preliminary investigation.

The participation of defense counsel in the process of criminal investigation was permitted from the moment a person was involved as an accused. However, both investigative commissions and judges conducting investigations retained the right to deny the participation of defense counsel if required in the interests of establishing the truth [4].

On 18 January 1921, a new Regulation on the People's Court was adopted in the Turkestan ASSR, which regulated the procedure for preliminary investigation. According to this Regulation, investigative commissions were replaced by individual people's investigators, which made it possible to clearly distinguish between the investigation and the trial process. In addition, the authority to initiate criminal cases and to carry out procedural actions was transferred from the people's judge to the district people's investigator, who acted independently. This reform represented an important step in the formation of the institution of preliminary investigation.

In 1922, the first Criminal Procedure Code of the RSFSR significantly expanded the number of inquiry bodies. It more clearly defined the functions of inquiry and broadened the range of investigative actions that

inquiry bodies were authorized to carry out. The inquiry bodies included the following: the militia and criminal investigation authorities; the GPU (State Political Directorate) bodies; as well as the tax, food supply, sanitary, technical, trade inspection bodies, and the labor inspectorate.

On the territory of the Turkestan ASSR, the RSFSR Criminal Procedure Code of 1922, which was in force there, distinguished between inquiries in cases where a preliminary investigation was not mandatory and inquiries in cases where a preliminary investigation was required. In the first group of cases, inquiry materials fully substituted for preliminary investigation records and served as a sufficient basis for the substantive consideration of the case in court (Article 107 of the 1922 RSFSR CPC). In the second group of cases, if certain investigative actions had been carried out by the inquiry bodies, then, as provided in Article 111 of the CPC, the investigator—upon finding the inquiry materials comprehensive and the case sufficiently investigated—was entitled, without conducting a thorough preliminary investigation, to limit the proceedings to issuing the indictment, questioning the accused, and drafting the bill of indictment [5].

Under the RSFSR Criminal Procedure Code of 1922, inquiry was regarded as the simplest form of investigation conducted in uncomplicated criminal cases (Article 107 of the CPC). In more complex and significant cases, the inquiry consisted of carrying out urgent investigative actions, after which the inquiry bodies transferred the case to the investigator for continuation of the preliminary investigation (Article 108 of the CPC).

The new edition of the RSFSR Criminal Procedure Code came into force on February 15, 1923, and in the same year, its application was extended to the territory of the Turkestan ASSR.

The distinctions between inquiry and preliminary investigation established in the Criminal Procedure Codes of 1922 and 1923 began to almost disappear in 1924, following the 5th All-Russian Congress of Soviet Justice Officials. The Congress recognized the necessity of significantly bringing inquiry and investigation closer together, on the grounds that "the difference between them lies in the complexity of the investigative objects falling within their jurisdiction." Consequently, the differences between them essentially came down to functional delineation [6].

On June 16, 1926, the Presidium of the Central Executive Committee of the Uzbek SSR approved the first Criminal Procedure Code, which entered into force on July 1, 1926.

Chapter Eight of this Code was devoted to the inquiry

bodies and began by listing them: the police and criminal investigation bodies, GPU bodies, tax, sanitary, technical, trade, and labor inspectorates — in cases within their jurisdiction; as well as government institutions and officials — in cases concerning unlawful actions of their subordinates.

According to Article 97 of the 1926 Criminal Procedure Code of the Uzbek SSR, before the investigator assumed the case, in criminal matters where preliminary investigation was mandatory, the inquiry bodies were authorized to interrogate witnesses and suspects, carry out seizures, conduct searches, inspections, and identifications, as well as detain individuals suspected of committing a crime

The inquiry body was required to notify the investigator and the prosecutor within 24 hours of the detention of a suspect, and in cases within its jurisdiction, also to inform the court.

The period for conducting an inquiry was limited to one month (Article 103 of the CPC), and no extension of this period was provided.

Chapter Nine established the general conditions for conducting a preliminary investigation, stipulating that such an investigation was mandatory in cases under the jurisdiction of provincial courts and military tribunals, while in other cases it could be conducted based on a decision of the people's court or upon the prosecutor's proposal.

The preliminary investigation had to be completed within two months from the date the decision was issued to involve the suspect as an accused. If the investigation could not be completed within this period, the investigator was obliged to inform the prosecutor of the reasons for the delay. However, no procedure for extending the investigation period was provided.

Preliminary investigations into cases under the jurisdiction of provincial courts were carried out by people's investigators and investigators at provincial courts under the supervision of the respective prosecutor. In all cases, the investigator was required to issue charges, interrogate the accused, and prepare the bill of indictment (Article 108).

The practice of applying the CPC of the Uzbek SSR, particularly the state of pre-trial proceedings, was dependent on a number of legislative acts and directive instructions issued by governing bodies during those years. For instance, under the Regulation on the People's Commissariat of Justice of the Uzbek SSR adopted in December 1925, it was entrusted with the overall supervision of investigative and prosecutorial bodies [7]. The Prosecutorial Department of the

People's Commissariat of Justice held the authority to initiate criminal prosecution and supervised the activities of the investigative, inquiry, and GPU bodies. Following the adoption of the Resolution of the CEC and the Council of People's Commissars of the Uzbek SSR of October 27, 1928, "On the Procedure for Directing the Judicial Bodies of the Uzbek SSR," one of the deputies of the People's Commissar of Justice became the Prosecutor of the Republic, while the other was designated as the Chairman of the Supreme Court of the Uzbek SSR [8]. This was the first step toward separating the prosecutorial bodies from the judicial institutions. By the resolution of the CEC of the Uzbek SSR dated December 1, 1928, the investigative apparatus was subordinated to the prosecutorial bodies [9]. In practice, the transfer of investigators to the prosecution strengthened and expanded their authority to exercise prosecutorial functions in relation to the inquiry bodies. Investigators not only supervised the activities of the inquiry bodies but also approved indictments in cases completed by them, brought the accused to trial, and participated in court hearings on such cases as state prosecutors (Articles 94, 97, 102, and others of the 1926 CPC of the Uzbek SSR).

On June 29, 1929, the new (second) Criminal Procedure Code of the Uzbek SSR was adopted and came into force on August 1 of the same year.

G.A. Abdumajidov rightly emphasized that the attempt to make the law simpler and more understandable for the working people in practice led to the abandonment of many achievements of procedural science and the removal of a number of provisions of the CPC of the Uzbek SSR that had proven themselves fully effective in practice. The previous CPC contained many shortcomings, but the 1929 CPC did not eliminate them; instead, it multiplied them [10].

Article 4 of the CPC of the Uzbek SSR stated:

"Preliminary investigation shall be carried out by investigators, the militia, the criminal investigation department, the united GPU bodies, special inspectorates responsible for conducting them, and other authorities vested with the right of investigation under special laws."

The following were also vested with the right to conduct investigations:

1. Legal counsels of institutions, organizations, and enterprises;
2. Chairpersons and members of the audit commissions of consumer societies;
3. Instructors of the Uzbek State Wholesale-Retail Trade Trust system;
4. Inspectors of the financial-budget inspection.

These inquiry bodies, as stipulated in Article 4 of the 1929 Criminal Procedure Code of the Uzbek SSR, were recognized as “other authorities granted by law with the right to conduct inquiries.”

It should be noted that the powers of the above-mentioned inquiry bodies to initiate criminal proceedings were to some extent limited, since the officials indicated, when issuing a decision to initiate a criminal case, were required to send a copy of this decision to the supervising prosecutor and obtain confirmation of the prosecutor’s consent to the decision. Only in such a case was the case considered to have been initiated [11].

From the content of Article 4 of the 1929 Criminal Procedure Code of the Uzbek SSR, it is evident that the concepts of inquiry and preliminary investigation did not exist separately, since both were merged into a single general concept of “preliminary investigation.” The CPC assigned common tasks to these two institutions and regulated both the time limits for investigations and the scope of cases subject to investigation.

At the same time, Article 10 of the 1929 CPC granted the investigator the right to refer any case for full investigation to the inquiry bodies. In practice, this led to a significant blurring of the boundaries between preliminary investigation and inquiry, and to a sharp decrease in the number of cases investigated directly by investigators.

Thus, by the end of the 1920s, the boundary between inquiry and preliminary investigation began to disappear, since investigators and prosecutors increasingly exercised their right to transfer criminal cases—those that required preliminary investigation—to the inquiry bodies for investigation. It took many years to realize the incorrectness of this approach [12].

According to the all-Union laws adopted between 1934 and 1936, the following bodies were granted the right to conduct preliminary investigations: the state security administration bodies in cases concerning state crimes and offenses against the administrative order; the fire protection authorities in cases concerning violations of fire safety regulations; and the state automobile inspection authorities in cases concerning violations of traffic rules, car accidents, misuse and negligent treatment of motor vehicles, as well as breaches of discipline in motor transport.

The 1929 Criminal Procedure Code of the Uzbek SSR did not establish a clear boundary between the prosecutor and the investigator in the exercise of investigation and supervision. In fact, the investigator was regarded as a prosecutor in relation to other investigative bodies. This situation was corrected by the directive letter of

the Republic’s Prosecutor dated November 20, 1933, “On the Reorganization of Supervision over Investigation and Investigative Work.” This letter assigned both supervision and leadership of investigations to the prosecutors [13].

Until the mid-1950s, there were no clear procedural boundaries between inquiry and preliminary investigation. Such distinctions emerged only after the adoption of documents such as the Regulation on Prosecutorial Supervision in the USSR of May 24, 1955, and the Fundamentals of Criminal Procedure of the USSR and the Union Republics of December 25, 1958.

Following the adoption of the Fundamentals of Criminal Procedure of the USSR and the Union Republics, the Criminal Procedure Code of the Uzbek SSR was approved on May 21, 1959, and entered into force on January 1, 1960.

At its core, as before, lay historically established elements such as the principle of material truth—which ensured the predominance of state authorities in the conduct of criminal proceedings and obliged them to comprehensively, fully, and objectively examine the circumstances of a criminal case. This corresponded to the continental-legal nature of local criminal procedure.

At the same time, the content of criminal procedural activity underwent a change: pre-trial proceedings were divided into two independent stages—initiation of a criminal case and preliminary investigation. Moreover, this transformation led to a pronounced accusatory bias, which resulted in the effective disappearance of the influence of the defense during pre-trial proceedings [14].

The 1959 Fundamentals of the Criminal Procedure Code of the Uzbek SSR established two forms of preliminary investigation: inquiry (*surishtiruv*) and preliminary investigation (*dastlabki tergov*), and provided a complete list of preliminary investigation bodies.

Inquiry consisted of two forms: the first covered conducting a full inquiry in cases where a preliminary investigation was not mandatory, the second involved carrying out urgent investigative actions and subsequently transferring the case to the investigator in situations where a preliminary investigation was required.

According to Articles 28 and 97 of the Criminal Procedure Code of the Uzbek SSR, the following were included among the bodies of inquiry

- 1) the police authorities (*militsiya*);
- 2) commanders of military units and formations, and heads of military institutions — in cases concerning all

crimes committed by their subordinates or military servicemen, as well as by persons liable for military service during the performance of service or training duties; and also in cases concerning crimes committed in military institutions or units, or by civilians working in such institutions or units;

3) heads of correctional labor institutions — in cases concerning crimes committed within the territory of the correctional labor institution;

4) state fire supervision authorities — in cases concerning fires and violations of fire safety regulations;

5) border guard authorities — in cases concerning violations of the state border;

6) state security committee authorities — in cases under their preliminary investigation. 1959-й йилги ЎзССР ЖПКга мувофиқ дастлабки терговни юртишда ҳимоячи иштирок этиши назарда тутилган бўлса, суриштирувни юртишнинг соддалаштирилган шакли сифатида терговда ҳимоячи иштирок этмаган [15].

The prosecutor's rights and obligations in exercising supervision over the enforcement of laws during preliminary investigation and inquiry, the issues that the prosecutor had to resolve in cases submitted with an indictment, as well as his decisions on such matters, were enumerated.

During the Soviet period, the distinctive feature of criminal procedure was that the position of state bodies was dominant, and any issue arising in the course of criminal procedure was resolved either by an official or by his superior. Other participants, in particular the suspect and the accused, were assigned the role of silent observers of the investigator's work. The driving force of the entire process was the public interest [16].

On September 22, 1994, the Criminal Procedure Code of the Republic of Uzbekistan was adopted and entered into legal force on April 1, 1995. It imposed the obligation to conduct preliminary investigation in all criminal cases during pre-trial proceedings.

The conduct of inquiry was assigned to the following inquiry bodies

1) the police;

2) commanders of military units and formations, as well as heads of military institutions and educational establishments;

3) the bodies of the National Security Service;

4) heads of the bodies managing the penal enforcement system of the Ministry of Internal Affairs of the Republic of Uzbekistan, as well as heads of

correctional institutions executing imprisonment sentences, penal colonies, juvenile colonies, pre-trial detention centers, and prisons;

5) state fire supervision bodies;

6) border protection bodies;

7) captains of sea vessels on long voyages;

8) state tax and customs service bodies.

The list of inquiry bodies was amended several times, and until September 6, 2017, according to Article 339 of the Criminal Procedure Code of the Republic of Uzbekistan, inquiry consisted of carrying out urgent investigative actions.

According to the current Criminal Procedure Code, on September 6, 2017, inquiry was reformed. After the list of bodies authorized to carry out pre-investigation checks was established, and based on their tasks and powers, measures aimed at identifying the elements of a crime and the persons who committed it — including the use of scientific and technical means, as well as the identification of information that may serve as evidence in a criminal case — are now to be carried out in accordance with the provisions of the Criminal Procedure Code. Following this reform, some of these bodies, which had previously been empowered as inquiry bodies to conduct operational-search activities for such purposes, have now been assigned these functions as pre-investigation check bodies.

At present, the bodies authorized to carry out pre-investigation checks are listed in Article 391 of the Criminal Procedure Code of the Republic of Uzbekistan.

Currently, the bodies authorized to carry out pre-investigation checks are enumerated in the relevant article of the CPC of the Republic of Uzbekistan.

Inquiry, like preliminary investigation, is considered a form of investigation as provided for in Article 320³ of the CPC of the Republic of Uzbekistan, and according to Article 320¹ of the CPC of the Republic of Uzbekistan, it constitutes, together with pre-investigation checks, a form of pre-trial proceedings.

According to the current Criminal Procedure Code, the participation of defense counsel in pre-trial proceedings is envisaged from the moment a person is actually detained, or from the moment the person is acquainted with the decision to involve him as a suspect in the case. Unlike previous criminal procedural laws, the current CPC secures the real participation of defense counsel in pre-trial proceedings, which is reflected in the execution of a statement of waiver of defense. Such a statement must bear not only the signatures of the investigator, the suspect, and the accused, but also that of the defense counsel (attorney).

Prosecutors are entrusted with the right to exercise supervision at the stages of pre-trial proceedings and, in accordance with Article 382 of the CPC of the Republic of Uzbekistan, to submit motions to the court for permission to apply certain procedural coercive measures and to conduct certain investigative actions.

The powers of the investigating judge in relation to pre-trial proceedings are enumerated in Article 311 of the CPC of the Republic of Uzbekistan.

Thus, the genesis of the formation of pre-trial proceedings within a mixed model in Uzbekistan's criminal process has today shaped the system of public-authority bodies — pre-investigation inquiry, inquiry, preliminary investigation, the prosecutor's office, and the judiciary.

This system has undergone changes and development through an evolutionary path. It is evident that within this system of pre-trial proceedings, the main participants in Uzbekistan's criminal process are the investigator and the inquirer, who act as procedurally independent participants in pre-trial proceedings.

Based on the above and the analyses conducted, the following stages in the emergence and development of pre-trial proceedings in the criminal process of the Republic of Uzbekistan may be distinguished:

The first stage — the emergence of pre-trial proceedings and investigation during the period prior to the October Revolution (1864–1917).

The second stage — the adoption of legislative acts on pre-trial proceedings and preliminary investigation after the October Revolution and before the adoption of the Criminal Procedure Code of the Uzbek SSR (1917–1924).

The third stage — the development of pre-trial proceedings in accordance with the first, second, and third editions of the Criminal Procedure Code of the Uzbek SSR during the Soviet period (1926–1994).

The fourth stage — the formation and reform of modern pre-trial proceedings in accordance with the Criminal Procedure Code of the Republic of Uzbekistan (1995–present)

REFERENCES

POLNOE SOBRANIE ZAKONOV ROSSIISKOI IMPERII [Full Collection of Laws of the Russian Empire, official publication] V. 39, Title 2, No. 41473, St. Petersburg, 1887.

Татарин Владилен Гайкович Как стать настоящим профессором и генералом: к 95-летию со дня рождения известного советского ученого-административиста Михаила Ивановича Еропкина // Вестник экономической безопасности. 2017. №2.

Портнов В.П. Процессуальные формы дознания 1919-1920 гг. // Правоведение.- 1969.- № 2.- С.11-12.

Eugene Skripilev, RAZVITIE ROSSIISKOGO PRAVA V 19 – NACHALE 20 VEKOV [Development of Russian law in 19 –early 20 centuries], Nauka: Moscow, 1997, p. 94.

Советская деревня глазами ВЧК—ОГПУ—НКВД. 1918—1939. Документы и материалы. В 4-х т. Т. 1. 1918—1922 гг. / Ин-т рос. истории Рос. академии наук, Дом наук о человеке (Франция), Центр. архив ФСБ Российской Федерации, Ин-т истории новейшего времени (Франция), под ред. А.Береловича, В.Данилова. — М.: «Российская политическая энциклопедия» (РОССПЭН), 1998. — 864 с.

Declaration of the Provisional Government on its composition and tasks (1917, March 3) / Textbook on the history of state and law of the USSR. Pre-October period/ed. Y.P. Titova and O.I. Chistyakova. Moscow, 1990. 461.

СУ УзССР, 1925, № 16, ст. 174.

СУ УзССР, 1928, № 44, ст. 292.

СУ УзССР, 1928, № 49, ст. 322.

Абдумажидов Г. Развитие законодательства о расследовании преступлений. — Т.: Узбекистон, 1974. С.36, 44-46.

Peter Solomon, REFORMING JUSTICE IN RUSSIA, 1864-1996. POWER, CULTURE, AND THE LIMITS OF LEGAL ORDER (Armonk, New York, London, England: M.E. Sharpe, 1997) p. 12.

Крылов И.Ф. Бастрыкин А.И. Розыск, дознание, следствие: Учеб. пособие.- Л.: Изд-во ЛГУ, 1984. — С.105.

ЦГА УзССР, ф. Р-904, оп. 9, д. 208, л. 1-3.

Shimanovsky, V.V. The development of the organizational structure and procedural position of the preliminary investigation bodies, 1917-1933. // Crime control issues. Moscow, 1968.

Абдумажидов Г. Развитие законодательства о расследовании преступлений. — Т.: Узбекистон, 1974. С.95.

Dervishev, Y.V. The bodies of the preliminary investigation of Russia: past, present, future: textbook, Omsk, 1998.