

## Different Types of Preliminary Investigation and the Rules for Conducting It

TOFIG HUSEYNOV and NURLAN ISMAYILOV

*Nakhchivan State University, Azerbaijan*

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### ABSTRACT

This study examines the concept, forms, and procedural significance of preliminary investigation within criminal proceedings, with particular attention to its role in the pre-trial stage. Preliminary investigation is defined as a mandatory stage of criminal procedure conducted in the form of inquiry and preliminary investigation, aimed at establishing a sufficient evidentiary basis for the resolution of a criminal case in court. Its primary purpose is to identify and verify circumstances subject to proof, ensure proper qualification of the criminal act, and prepare procedural materials for judicial review. The research highlights that preliminary investigation functions as an independent procedural stage characterized by a defined legal framework, specific commencement and termination points, and final procedural decisions such as indictments or final protocols. It is carried out by authorized state bodies, including inquiry officers, investigators, and prosecutors exercising procedural supervision. The process is strictly regulated by criminal procedural legislation, ensuring legality, protection of participants' rights, and adherence to procedural guarantees. Furthermore, the study distinguishes between different forms of inquiry, including urgent investigative actions and simplified pre-trial proceedings, emphasizing their distinct legal nature and procedural consequences. It concludes that preliminary investigation serves as a foundational stage of criminal justice, ensuring both the protection of victims' rights and the safeguarding of individuals against unlawful prosecution.

**Keywords:** Preliminary investigation; inquiry; criminal procedure; pre-trial proceedings; accused person; suspect; victim; procedural guarantees; presumption of innocence

### 1. INTRODUCTION

A preliminary investigation is a pre-trial proceeding conducted in the form of a preliminary inquiry and investigation in a criminal case. The main purpose of carrying out a preliminary investigation is to establish an evidentiary basis that serves to determine the circumstances that must be proven; in other words, to prepare the case for referral to the court. Professor F. Abbasova, Doctor of Habilitated Sciences in Law, described the preliminary investigation as the second independent stage of criminal proceedings (Abbasova, 2015). She also identified the place of the preliminary investigation stage within the system of stages of criminal procedure by classifying it according to several defining characteristics.

The first characteristic is that the preliminary investigation constitutes an independent procedural stage. The significance of this characteristic is explained by the fact that the preliminary investigation stage possesses all the essential elements inherent in every independent stage of criminal proceedings. Thus, a procedural stage must have its own specific duration, that is, clearly defined moments of commencement and completion. According to Article 217.1 of the Criminal Procedure Code (CPC), a preliminary investigation conducted in the form of a preliminary inquiry or investigation (except for the procedural actions provided for in Article 207.4 of the CPC) may be carried out only after a decision has been issued to initiate criminal proceedings (CPC, 2021). Each stage must also have its own specific final procedural act (decision or final protocol); for example, the indictment act serves as a procedural document that may be drawn up only during the stage of preliminary investigation (Huseynov & Ismayilov, 2026).

The second characteristic is that, during the preliminary investigation stage, the main part of criminal procedural activity is carried out by competent state authorities. This characteristic determines the range of subjects authorized to conduct a preliminary investigation: the inquiry officer, the investigator, and the prosecutor exercising procedural supervision over the preliminary investigation. The third characteristic is that the criminal procedural activity conducted during the preliminary investigation stage is strictly regulated by law; this characteristic indicates the normative basis of the preliminary investigation and the criterion of legality. A significant part of the provisions of both the General and the Special Parts of the Criminal Procedure Code is devoted to the legal regulation of the preliminary investigation stage.

The fourth characteristic is that the specific purpose of the preliminary investigation is consistent with the general purpose of criminal proceedings, indicating that the preliminary investigation functions as a harmonious element within the system of stages of the criminal process (Behbudov et al., 2024). If, during the preliminary investigation stage, the violated rights and legitimate interests of persons harmed by the crime are not restored, or if the necessary grounds for their restoration are not established — for example, if a person is not recognized as a victim or if the person who should be held criminally liable is not identified — and if innocent persons are subjected to criminal prosecution, then it cannot be said that the objectives of criminal proceedings have been achieved (Huseynov, 2025).

Professor F. Abbasova defined the general conditions relating to the conduct of a preliminary investigation as mandatory provisions applicable to the preliminary investigation stage that create the necessary framework for the implementation of the principles of criminal procedure at this stage and determine the specific features of the realization of those principles (Abbasova, 2015). According to the author, in the contemporary period it would be incorrect to consider the general conditions of a preliminary investigation solely as the general conditions of the preliminary investigation stage in the narrow sense of investigative proceedings. Since a preliminary investigation constitutes pre-trial proceedings conducted in the form of both preliminary investigation and inquiry in a criminal case, the general conditions of a preliminary investigation are mandatory provisions applicable to both investigative proceedings and inquiry proceedings (Aliyev et al., 2020).

## **2. METHODOLOGY**

This study employs a qualitative descriptive research design to examine the legal nature, structure, and procedural forms of preliminary investigation in criminal proceedings. The methodological approach is grounded in doctrinal legal analysis, focusing on the interpretation of criminal procedural norms, academic literature, and comparative scholarly views on the stages and functions of pre-trial investigation.

The primary data sources include provisions of the Criminal Procedure Code, with particular emphasis on chapters regulating inquiry and preliminary investigation, as well as procedural rules governing urgent investigative actions, simplified proceedings, and the rights and duties of procedural participants. In addition, academic works of legal scholars, including A. V. Smirnov, K. B. Kalinovski, and F. Abbasova, are analyzed to identify theoretical approaches to the classification and conceptualization of preliminary investigation stages and their general conditions (Abbasova, 2015; Smirnov & Kalinovski, 2008).

The research also applies comparative analysis to distinguish between different forms of inquiry, specifically urgent investigative actions and simplified pre-trial proceedings, highlighting their procedural differences, legal consequences, and functional roles within the criminal justice system. This allows for a clearer understanding of how preliminary investigation operates as a multi-structured stage aimed at both evidence collection and procedural safeguarding (Karimov, 2018). A systematic analysis method is used to examine the internal structure of preliminary investigation, including its commencement, duration, procedural actions, and completion through indictments or final procedural acts. Logical interpretation and synthesis are applied to integrate legal norms with doctrinal perspectives, ensuring consistency in defining the role of investigative authorities such as investigators, inquiry officers, and prosecutors. The study further employs content analysis to identify recurring legal principles such as legality, protection of participants' rights, and the presumption of innocence.

### 3. RESULTS

Taking the structure of Chapter 26 of the Criminal Procedure Code as a basis, the general conditions of the preliminary investigation are as follows:

- 1) the conduct of inquiry proceedings in criminal cases;
- 2) the conduct of preliminary investigation in criminal cases;
- 3) the place where the preliminary investigation is conducted;
- 4) the commencement of the preliminary investigation;
- 5) the time limits of the preliminary investigation;
- 6) the completion of the preliminary investigation;
- 7) the mandatory provision of explanations concerning the rights of participants in criminal proceedings and the mandatory consideration of their motions;
- 8) the duty to identify and eliminate circumstances conducive to the commission of crimes; and
- 9) the inadmissibility of disclosing information obtained during the preliminary investigation.

#### ***3.1 Conducting Inquiry Proceedings in Criminal Cases***

As noted above, the preliminary investigation constitutes a highly important component of criminal proceedings and is carried out in the form of inquiry and preliminary investigation proceedings. During the preliminary investigation, a sufficient body of evidence is collected regarding the circumstances that must be proven in the criminal case. Since this stage of the criminal process takes place before the judicial examination of the case, it is referred to as the preliminary investigation stage. Inquiry proceedings, which constitute one form of preliminary investigation, are carried out in two forms: first, the conduct of urgent investigative actions in criminal cases for which a preliminary investigation is mandatory; and second, simplified pre-trial proceedings in certain evident criminal cases that do not pose a significant threat to society.

According to the Instruction approved by Order No. 560 of the Ministry of Internal Affairs dated 30 August 2011, the examination of applications and information relating to committed or planned crimes is recognized as one of the forms of conducting an inquiry. The aforementioned forms of inquiry differ not only in terms of the procedure for their implementation and the categories of crimes they encompass, but also in their very nature. The principal difference lies in the fact that, in the first case, the procedural actions carried out by the inquiry officer constitute only the initial stage of the preliminary investigation in a criminal case and are aimed at detecting traces of the crime, as well as identifying, securing, and formally recording, in accordance with criminal procedural legislation, evidence that must be immediately collected and attached to the criminal case file. Following an inquiry conducted in the form of urgent investigative actions, criminal prosecution continues in the form of a preliminary investigation.

Inquiry conducted in the form of simplified pre-trial proceedings in certain evident criminal cases that do not pose a significant threat to society, however, constitutes the entirety of the preliminary investigation. In such cases, no subsequent preliminary investigation is envisaged following the inquiry conducted in this form (Kolesnikov & Modogoev, 2007). The scope of the procedural activities of inquiry bodies is quite broad, and the jurisdiction of criminal cases assigned to them is linked to the competence of the investigators of those inquiry bodies. Inquiry officers of these bodies may conduct inquiries in the form of urgent investigative actions in any criminal case falling within the competence of the investigators of the respective bodies, as well as inquiries in the form of simplified pre-trial proceedings in certain evident criminal cases that do not pose a significant threat to society and fall within the jurisdiction of those bodies.

Inquiries in criminal cases falling within the jurisdiction of inquiry bodies are conducted by employees of the divisions (sections or other structural units) of those bodies that are authorized to carry out inquiry proceedings (Shatalov & Krymov, 2019). An inquiry in the form of urgent investigative actions is conducted when a criminal case concerning an offence for which a preliminary investigation is mandatory has been initiated by an inquiry officer and it is necessary to carry out urgent investigative actions in that case. Since the transfer of a criminal case from an investigative body to an inquiry body is not permitted, an inquiry officer may not conduct an inquiry in the form of urgent investigative actions in a criminal case initiated by an investigator or a prosecutor. In such circumstances, the inquiry officer may, upon the instructions of the prosecutor or investigator, carry out specific investigative or procedural actions, as well as operational-search measures; however, such activities do not constitute a preliminary investigation conducted in the form of an inquiry.

Even if an inquiry officer has initiated a criminal case, if there is no necessity to conduct urgent investigative actions, the officer must, without commencing the inquiry, refer the case to the investigator having the appropriate jurisdiction. Criminal procedural legislation does not specify the circumstances under which investigative actions should be regarded as urgent. This may be determined in each individual case depending on factors such as the circumstances, time, and place of the commission of the criminal act, the identity of the persons who committed it, the state of the evidence in the case, and other relevant considerations. In our view, urgent investigative actions become necessary when:

- a) it is presumed that the person who committed the crime may flee, go into hiding, or cause traces of the crime to disappear;
- b) it is presumed that traces having evidentiary value in the criminal case may be lost if they are not collected without delay;

- c) it may become impossible to obtain compensation at a later stage for the damage caused as a result of the crime; and
- d) there are other circumstances giving rise to the assumption that difficulties may arise in solving the crime.

#### **4. DISCUSSION**

When such circumstances exist, the inquiry officer, by conducting urgent investigative actions, identifies and formally records the traces of the crime and attaches them to the criminal case file. Regardless of the form of inquiry being conducted, the inquiry officer must fully comply with the provisions of the Criminal Procedure Code governing the relevant investigative or procedural action (Jafarghuliyev, 2008). In doing so, the inquiry officer exercises the rights of the investigator or performs the investigator's duties. However, this does not refer to the procedural rights of the investigator listed in Article 85 of the CPC; rather, it refers to the rights that the investigator possesses when carrying out a specific investigative or procedural action. For example, under no circumstances may an inquiry officer issue a decision to bring a person as an accused.

Russian procedural scholars A. V. Smirnov and K. B. Kalinovski distinguish three stages in the conduct of a preliminary investigation (Smirnov & Kalinovski, 2008). The first is an investigation conducted in the form of a general inquiry, which is not directed at a person specifically known to the preliminary investigation, but rather concerns persons in general — that is, hypothetical rather than specifically identified individuals. In legal terms, the investigation is conducted not in relation to a person precisely identified by the investigating authorities, but in connection with the fact of the criminal incident that has occurred. The principal purpose of this type of investigation is to establish the occurrence and circumstances of the criminal event, identify and expose the person responsible for committing the offence and bring that person to criminal liability, or alternatively, exonerate the individual concerned (Huseynov & Ismayilov, 2024). During the course of the preliminary investigation, preparations are made for the subsequent stage of the proceedings, thereby creating the grounds for the presentation of an initial charge against a person.

The second stage involves bringing a person as an accused, presenting the charge, and resolving the issue of selecting a preventive measure in respect of that person (referred to in textbooks as summary proceedings). At this stage of the preliminary investigation, the evidence collected against the person suspected of having committed the offence is assessed, the charge is formally presented to that person, and the necessary conditions are created to enable the individual to defend against the charge brought. In other words, alongside the formulation of the initial accusation, the positions of both the prosecution and the defence are clarified and specified.

The third stage of the preliminary investigation, referred to as special proceedings, is conducted in relation to a specific accused person. At this stage, the validity and substantiation of the charges brought against the accused are re-examined, the evidence and arguments presented by the defence are considered, and, as a result, a final indictment is prepared against the person. The collected materials are then forwarded to the court for judicial examination.

#### **5. CONCLUSION**

General conditions are mandatory provisions that create the necessary framework for the implementation of the principles of criminal procedure at the stage of preliminary investigation and define the specific features of their realization. Since the preliminary investigation is a pre-trial proceeding conducted in the form of both preliminary investigation and inquiry in a criminal case, the

general conditions of the preliminary investigation constitute mandatory provisions applicable to both preliminary investigation and inquiry.

The preliminary investigation, being a pre-trial proceeding conducted in the form of preliminary investigation and inquiry in a criminal case, is aimed at forming an evidentiary basis and preparing materials for submission of the case to the court. The different types of preliminary investigation also serve this same purpose. By ensuring the lawful collection and verification of evidence, the proper qualification of criminal acts, and the protection of the rights of all participants, the preliminary investigation simultaneously safeguards the interests of victims and protects innocent persons against unlawful prosecution, thereby fulfilling its foundational role within the system of criminal justice.

## DECLARATIONS

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## ABOUT THE AUTHORS

**Tofiq Huseynov** is a Lecturer at the Department of General Law, Nakhchivan State University, Azerbaijan. His research interests include criminal procedure, pre-trial investigation, evidence law, and criminalistics.

<https://orcid.org/0009-0003-0993-3958>

Email: [tofiqhuseynov@ndu.edu.az](mailto:tofiqhuseynov@ndu.edu.az)

**Nurlan Ismayilov** is a Lecturer at the Department of General Law, Nakhchivan State University, Azerbaijan. His research interests include criminal procedure, criminal law, and the legal regulation of pre-trial proceedings.

<https://orcid.org/0009-0009-6679-5970>

Email: [nurlanmuellim667@gmail.com](mailto:nurlanmuellim667@gmail.com)

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