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# JUDICIAL OVERSIGHT IN THE PRE-TRIAL INVESTIGATION STAGE: A KEY MECHANISM FOR DEMOCRATIZING UZBEKISTAN'S CRIMINAL PROCEDURE

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## Abstract

This article examines judicial oversight (court control) over the pre-trial investigation as one of the essential conditions for democratizing and modernizing Uzbekistan's judicial and legal system. It analyzes the introduction of court supervision during the pre-trial phase, its historical origins, objectives, and forms of implementation under the reformed Criminal Procedure Code. The study highlights how such oversight protects constitutional rights and freedoms, ensures the legality and validity of procedural actions, strengthens the adversarial principle, and enhances public trust in fair justice. Particular attention is given to the powers of investigative judges, the need to expand judicial authorization for certain investigative measures, and the role of court control in preventing procedural violations that could affect the quality of subsequent trial stages. The author argues that elevating judicial oversight to the level of a fundamental principle of criminal proceedings aligns Uzbekistan's legislation with international standards and contributes to broader societal democratization and modernization.

**Keywords:** Judicial oversight, pre-trial investigation, Criminal Procedure Code, investigative judge, constitutional rights, human rights protection, criminal proceedings stages, democratization of justice, adversarial principle, Uzbekistan judicial reforms



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## **Introduction**

The further democratization and liberalization of the judicial and legal system, increasing the efficiency of courts, law enforcement, and supervisory bodies, enhancing public confidence in fair justice, ensuring the rule of law in society, and strengthening legality are leading to the introduction of new forms, new content, and new terminology into criminal procedure legislation as part of judicial and legal reforms.

For example, the introduction of plea bargaining, preliminary hearings, investigative judges, the application of proceedings in higher-instance courts, the new content to the cassation instance court, and so on.

As history shows, the concept of “judicial oversight in the preliminary investigation” has attracted everyone's attention. The statement that “today there is a need to revisit certain rules related to strengthening judicial oversight over the pre-investigation check, preliminary investigation, or pre-trial proceedings in our criminal and procedural legislation” has created an opportunity to address yet another important task in improving criminal procedure legislation.

The primary goal of introducing judicial oversight into the preliminary investigation is, first and foremost, to resolve issues related to restricting a person's constitutional rights and freedoms in accordance with international requirements.

As the President emphasized, the process of introducing judicial oversight into the preliminary investigation is an organizational and legal matter that requires “thorough and serious development, as well as preparation of the judicial system and other law enforcement and prosecutorial bodies to implement these changes.”

This requires not only improving procedural legislation but also changing the mindset and professional preparedness of judges and prosecutors.

To express a well-founded opinion on this issue, it is necessary to study its foundation, specific features, and comparative characteristics. First of all, it is essential to recognize the existence of judicial oversight at the stages of the criminal process.

Criminal proceedings consist of five independent but interconnected and sequential stages: initiation of a criminal case; preliminary investigation;



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preparation of the criminal case for trial and court hearing; review of the legality, validity, and fairness of judgments, rulings, and decisions; and execution of the judgment.

Each of these stages is characterized by its independence, specific tasks assigned only to it, the presence of procedural documents, designated participants, etc. Their interconnection and sequence lie in the fact that one stage serves the next, the second stage does not begin until the first is completed, and the final document of each stage serves as the basis for starting the next stage.

Introducing judicial oversight into the preliminary investigation stage creates an organic link between the other stages of the criminal process, thereby improving the quality of oversight and making the system of objectives more effective.

The full, comprehensive, and impartial examination of the preliminary investigation inevitably affects the quality of the court hearing.

If each stage of criminal proceedings fulfills its assigned task clearly, timely, genuinely, and in strict compliance with the requirements established by law, the interconnection between stages is preserved, and the result of procedural activity is always of high quality. Serious errors and shortcomings committed during the preliminary investigation are difficult to correct later. This may serve as grounds for overturning the judgment. The assessment of the quality of the preliminary investigation is given only during the court hearing. The stage of preparing the case for trial is no exception.

Agreeing with the view that elements of judicial oversight exist in almost all stages of the criminal process, it is necessary to examine in what form and procedure this oversight is implemented at the pre-trial proceedings stage. In the literature, even this phrase is interpreted differently. For example: “judicial oversight at the pre-trial proceedings stage,” “judicial oversight over procedural documents of the preliminary investigation,” “judicial oversight over the legality of the preliminary investigation.”

Judicial oversight in the preliminary investigation not only monitors the full protection of the rights and freedoms of participants in the criminal process but also guarantees the legality and validity of the proof process. Judicial oversight in the preliminary investigation serves fair justice and creates the foundation for judgments of the judicial authority to be legal, reasoned, and just.



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The main objectives of judicial oversight in the preliminary investigation are to protect citizens' constitutional rights and freedoms; to contribute to the effective conduct of criminal justice activities; and, as an independent direction of activity, to create conditions for the administration of fair justice.

Judicial oversight in the preliminary investigation is not an entirely new institution historically. It first emerged in England in 1679. It was introduced in Russia during the judicial reform of the 1860s, i.e., incorporated into the 1864 Statute on Criminal Proceedings, and applied for several decades. It was abolished by the first decrees issued under Soviet rule.

Scholars have proposed raising the necessity of judicial oversight to the level of a principle of criminal proceedings.

“It is necessary to elevate judicial oversight in criminal proceedings to the level of a principle and to note the obligation to eliminate every violation of the law by the court,” one scholar states.

The Constitution guarantees the protection of citizens' rights and freedoms. The existence of the right to judicial protection itself indicates that any action or inaction contrary to the law, unlawful, unsubstantiated, or unjust decisions must be subject to judicial oversight. From this, it can be said that it is precisely this feature of judicial oversight that determines its social and legal nature. That is, the goal is to recognize the existence of judicial oversight as an entire system in the criminal process; to note that the protection of citizens' constitutional rights and freedoms is guaranteed by the court; and to emphasize that only legal, substantiated, and just judgments are enforced.

How is the establishment of judicial oversight in the preliminary investigation implemented, and what results can be achieved?

Currently, the powers of a judge include: reviewing motions for the application of detention or house arrest as a preventive measure; reviewing motions to extend the period of detention or house arrest; reviewing motions to extend the period of holding in custody up to forty-eight hours; reviewing motions to suspend the validity of a passport (travel document); reviewing motions to remove an accused from office; reviewing motions to place a person in a medical facility; reviewing motions to extend the period of a person's stay in a medical facility; reviewing motions for exhumation of a corpse; reviewing motions for



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interception of postal and telegraph communications; reviewing prosecutors' motions to preliminarily secure the testimony of witnesses and victims (civil plaintiffs); reviewing motions for search; reviewing motions for monitoring conversations via telephones and other telecommunication devices and obtaining information transmitted through them; reviewing motions for seizure of property.

In our view, for a number of serious investigative actions conducted during the preliminary investigation for the purpose of collecting and examining evidence, it is also necessary to obtain the consent of an investigative judge: examination of a person without consent, subjecting a person to expert examination, taking samples from a person for comparative examination, granting permission to obtain information on funds in banks and other credit institutions should also be incorporated into our criminal procedure legislation.

Participants in the criminal process, as well as any person who believes that their constitutional rights and interests have been violated, should have the right to file a complaint with the court against procedural documents, actions (inactions) adopted by officials (during pre-investigation check, inquiry officer, investigator, prosecutor).

In conclusion, judicial oversight creates the opportunity to ensure the constitutional rights and freedoms of participants in the criminal process and introduces the principle of adversarial proceedings into the preliminary investigation. In addition, the norms of criminal procedure legislation become even more aligned with the requirements of international instruments. Most importantly, the position of the judicial authority is strengthened, the independence of judges is ensured, and one of the main conditions for our primary goal—the democratization and renewal of society, modernization and reform of the country—is fulfilled.

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