

UDC 343.137.5

DOI <https://doi.org/10.32849/2663-5313/2022.2.20>**Olexandra Kaminska,***Postgraduate Student at the Department of Criminal Procedure, National Academy of Internal Affairs, 1, Solomianska square, Kyiv, Ukraine, postal code 03035, a.immensely@gmail.com***ORCID:** [orcid.org/0000-0002-1524-0176](https://orcid.org/0000-0002-1524-0176)

Kaminska, Olexandra (2022). Specificities of the application of procedural coercive measures during inquiries in respect of juveniles. *Entrepreneurship, Economy and Law*, 2, 130–135, doi <https://doi.org/10.32849/2663-5313/2022.2.20>

## SPECIFICITIES OF THE APPLICATION OF PROCEDURAL COERCIVE MEASURES DURING INQUIRIES IN RESPECT OF JUVENILES

**Abstract. Purpose.** The purpose of the scientific article is to analyse the existing coercive measures applied to juveniles during the inquiry. **Research methods.** The work is performed using general scientific and special methods of scientific knowledge: dialectical, historical and legal, formal and logical, methods of hermeneutics, generalization, comparison, etc. **Results.** An integral part of criminal proceedings is the protection of the rights of juveniles, the inadmissibility of illegal and unjustified prosecution. The need to study and summarize those coercive measures that are appropriate for juveniles who commit criminal offenses makes this article relevant. Improving and establishing in law the most humane precautionary measures that can fully ensure the rights and freedoms of juvenile offenders will help ensure the best interests of children in conflict with the law. Emphasis is placed on the existence of a significant number of problematic, controversial and unresolved issues of the CPC of Ukraine that arise during the application of measures of procedural coercion against a minor suspect, accused during the inquiry. **Conclusions.** Procedural coercive measures are an extreme remedy applied only under certain conditions and circumstances. Coercive measures include precautionary measures which are regarded as “special sanctions” applied to a person who has not yet been found guilty by the court. Juveniles who have committed a criminal offence may be subject to such measures as personal commitment and personal warranty. A transfer under supervision of parents, guardians, tutors or the administration of a children’s institution is considered to be a special precautionary measure. The main purpose of procedural coercive measures applied to a juvenile as a precautionary measure is to exert educational influence on the consciousness and behaviour of the juvenile offender. It is proposed to add to the list of main measures provided for in article 176 of the CPC of Ukraine a precautionary measure such as the transfer of a juvenile suspect or accused person under supervision to parents, guardians, tutors or the administration of a children’s institution.

**Key words:** coercion, influence, precautionary measure, criminal offense, pre-trial investigation.

### 1. Introduction

The Criminal Procedure Code provides for cases in which a person who participates in criminal procedural relations may be subjected to procedural coercive measures, of which the most severe are precautionary measures. Precautionary measures are a significant component of procedural coercive measures, and their use is always linked to restrictions on the rights and freedoms of certain categories of persons (suspect, accused). The law provides for two precautionary measures that may be applied to a juvenile suspect or accused who has committed a criminal offence: personal commitment, personal warranty. An alternative or special precautionary measure is provided for in the legislation for transferring a juvenile suspect or accused person under supervision of parents, guardians, tutors.

**Specific aspects** of taking precautionary measures in criminal proceedings were under the focus of Y.P. Alenin, Y.M. Hroshevyi, A.Y. Dubynskyi, O.V. Kaplina, Z.F. Kovryha, Y.D. Lukianchykov, D.P. Pysmennyi, V.V. Rozhnova, S.M. Stakhivskyi, L.D. Udalova, V.I. Farynyk, O.Y. Khablo, O.F. Vakulenko, S.V. Pastushenko, N.V. Rohatynska, and others. But now, due to the rapid development of criminal procedure under international child-friendly legislation, the issue of taking coercive measures against juveniles during the conduct of an initial inquiry is not examined.

The purpose of the scientific article is to analyse the existing coercive measures applied to juveniles during the inquiry. In order to achieve this purpose, the following tasks

should be fulfilled: to describe the concept of coercion in criminal proceedings and its place in the criminal justice system; to define the role of precautionary measures in the system of procedural coercive measures; to highlight the main theoretical and legal basis for using precautionary measures on juveniles during an inquiry.

Methodological tools are selected in accordance with the purpose set, the specificity of the object, and the subject matter of the study. The work was performed using general scientific and special methods of scientific knowledge: dialectical, historical-legal, formal-logical, hermeneutic methods, generalization, comparison.

The scientific novelty of the publication is that the research and generalization of coercive measures applied to juvenile offenders allow identifying the most effective ones, such as: personal commitment, personal warranty, transfer under supervision. The expediency of applying the listed measures to juveniles who have committed criminal offences has been analysed. The study makes proposal to add to the list of precautionary measures a transfer of a juvenile suspect or accused under supervision of parents, guardians, tutors or the administration of a children's institution.

## **2. Peculiarities in the application of measures of procedural enforcement**

Coercion is an inherent feature of the legal and regulatory mechanism. A procedural coercive measure is an element in the criminal procedure regulatory mechanism by which the state implements the requirements of law in a situation where a person does not fulfil or improperly fulfils the procedural obligations established by law (Matskiv, 2008, p. 97). The main factor determining the necessity of its application is the possibility of the participant in proceedings to commit an unlawful act. A coercive measure is exercised through a system of actions and decisions ensuring the achievement of the objective of a specific procedural act or the goal of a certain stage of criminal proceedings or the accomplishment of the objectives of criminal proceedings in general. But provided that "no person shall be subjected to unjustified procedural coercive measures" (art. 2 of the CPC) (Ukrainian Criminal Procedure Code). Therefore, coercion is implemented through a system of measures that are the subject of discussion in scientific journals.

According to V.M. Kornukov, coercive measures in criminal proceedings are the totality of all coercive measures provided for by the rules of criminal procedure law, aimed at proper performance of tasks of criminal proceedings and fulfilment by the participants in proceedings own duties during investigation

and consideration of criminal proceedings (Kornukov, 1978, p. 7).

Following Blahodyr and Liash, a coercive measure is an effective remedy against crime required at different stages of the criminal procedure (Liash, 2010, p. 32). In addition, they argue that coercive measures in criminal proceedings are a type of legal coercive measures involving the presumed and actual restriction (deterioration) of the social (including legal) status for the person subject to coercion and providing for the coercive threat or the actual negative effects of material, moral or organizational nature (Liash, 2010, p. 32).

V.V. Rozhnova defines coercive measures as the procedural means of State and legal coercion, provided for by criminal procedure law, applied by the authorized bodies conducting the proceeding, in a manner clearly defined by law, against persons, involved in criminal proceedings, to prevent and stop their unlawful actions, to identify and fix evidence in order to successfully fulfil the tasks of legal proceedings (Rozhnova, 2003, p. 9).

M.A. Pohoretskyi argues that coercive measures are those provided for in the criminal procedure law, applied in the manner prescribed by it by the authorized State bodies and their officials, provided the presence of grounds established by law regarding the suspect, the accused and other participants in the criminal proceedings, and aimed at preventing and deterring unlawful actions on the part of such persons, which impede or may impede with the proper investigation of criminal proceedings by the bodies of pre-trial investigation and court (Pohoretskyi, 2007 p.4). We agree with that view.

The analysis of the provisions of the CPC in force, the results of scientific research in this field and the materials of practice, it may be considered that coercive measures are divided into precautionary measures (provided for in art. 176 of the CPC) and measures to support criminal proceedings (Criminal Procedure Code of Ukraine, 2012).

## **3. Peculiarities of measures of procedural force for minors**

As above noted, precautionary measures by their legal nature are procedural coercive measures. These are certain restraints for a person suspected or accused of committing a criminal offence (Sivak, 2014, pp. 294-301). Although they are applied exclusively by court, they did not include the factors of punishment and the attitude of the State towards the individual as a perpetrator. The literature review reveals that the precautionary measures are "procedural sanctions" (Cherniavskyi, Tsutskiridze, Dudarets, 2019, p. 66). Procedural

sanctions are measures of influence applied to a person in case of violation of the conditions of procedural norm and entail certain adverse (negative) effects (Sivak, 2014, pp.294-301).

The purpose of the application of precautionary measures to juveniles is: to ensure the normal course of criminal proceedings; to prevent and remove real and possible obstacles on the part of the suspect (accused) in proceedings; to ensure the participation of the suspect (accused) in proceedings if such participation is required and where he or she arrives as soon as possible at the place of their conduct; to prevent the perpetration of further offences by the suspect (accused); the need to neutralize attempts of the suspect (accused) to create obstacles to the implementation of the procedural decisions, as well as educational influence on the juvenile person (Vakulenko, 2015, p.93).

General precautionary measures in accordance with the provisions of article 176 of the CPC are: personal commitment; personal warranty; bail; house arrest; detention (Criminal Procedure Code of Ukraine). According to the provisions of article 176 of the CPC, precautionary measures are applied: during pre-trial investigations, by the investigating judge at the request of the investigator agreed with the prosecutor, or at the request of the prosecutor; during judicial proceedings, by the court at the request of the prosecutor (Criminal Procedure Code of Ukraine, 2012). The prosecutor is the supervisor of this category of proceedings; in order to ensure maximum respect for the procedural guarantees by the juvenile suspect, the accused, he decides independently on the need to apply a precautionary measure or verifies the lawfulness and reasonableness of the relevant decision of the investigator, after which he submits the decision to be considered by the investigating judge (Criminal Procedure Code of Ukraine, 2012).

The CPC of Ukraine states that, in addition to participants in criminal proceedings who have the right to initiate precautionary measures and to take decisions on their application, the defence party has the right to do so, that is, it has the possibility to submit a motion for a precautionary measure, which justifies the declared principle of adversarial proceedings in criminal proceedings (Criminal Procedure Code of Ukraine, 2012).

The application of a precautionary measure to a juvenile requires an individual approach. Consideration should be given to the age and psychological characteristics of the underaged, the state of health, the type of activity, the place of residence, the effectiveness of the measures chosen, and whether the juvenile has committed a criminal misdemeanour

or a crime. Precautionary measures in criminal proceedings against juveniles should be protective and educational, but in no way punitive (Sivak, 2014, pp.294-301).

Letter 223-1134/0/4-13 of the High Specialized Court of Ukraine for consideration of civil and criminal cases of July 18, 2013 explicitly states that criminal proceedings against juveniles shall be conducted in accordance with the general procedure, taking into account the particularities provided for in Chapter 38 of the CPC, and in compliance with the principle of ensuring the exercise by juveniles of the right to enjoy additional guarantees established by domestic law and international treaties (Letter of the Supreme Specialized Court of Ukraine for consideration of civil and criminal cases, 2013). This approach is consistent with the provisions of the main international legal instruments in the field of the rights of the child.

In particular, article 3 of the UN Convention on the Rights of the Child defines that "in all actions concerning children, the best interests of the child shall be a primary consideration", and article 37 stipulates that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Convention on the Rights of the Child, 1989). Furthermore, para. 54 of the UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) stipulates that "no child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions" (Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), 1990). Finally, para. 5.1. of United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") provide that the juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence (United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985).

As already mentioned, during pre-trial investigation of criminal offences (including those committed by juveniles), precautionary measures such as personal commitment and personal warranty (Criminal Procedure Code of Ukraine, 2012) are permitted.

Personal commitment is a precautionary measure, implying restriction of the right of a suspect or accused person to freedom of movement, free choice of residence or stay by submission on the suspect, accused of an obligation to perform duties imposed on him or her by the investigating judge, court as specified in

part 5, article 194 of the CPC (Cherniavskiy, Tsutskiridze, Dudarets, 2019, p.44; Criminal Procedure Code of Ukraine, 2012).

It should be noted that part of the scientific community considers personal commitment to be ineffective, as there is no awareness and understanding of its importance to the juvenile person. Vakulenko believes that personal commitment is based on the effect of fear of punishment (Vakulenko, 2015, p.98). Tarasova argues that the purpose of the precautionary measure is prevention, avoidance of undesirable behaviour, and not intimidation of a juvenile person, since the precautionary measures do not constitute punishment (Tarasova, 2012, p.155).

Personal warranty is a precautionary measure, implying the provision by persons whom the investigating judge considers to be a credible written undertaking that they shall be entrusted for the performance by a suspect or accused person of the duties assigned to him or her, according to article 194 of the CPC of the Ukraine, and undertake, if necessary, to deliver him or her to the pre-trial investigation body or to the court at short notice (Cherniavskiy, Tsutskiridze, Dudarets, 2019, p.44; Criminal Procedure Code of Ukraine, 2012). Personal warranty is grounded on the fact that other persons, guarantors, who mainly have personal or service ties with the person they vouched for, and can influence him morally, are responsible for his or her behaviour (Cherniavskiy, Tsutskiridze, Dudarets, 2019, p. 45).

Moreover, the use of personal warranty shows how high legal culture in society is and whether it is possible to involve the public in the rehabilitation of juvenile offenders. Such persons should be specially trusted primarily by the juvenile offender and not only by the court. Moreover, the presence of "effect of shame" (that you will not justify trust; that others are responsible for you; that you cannot keep your words). It should be added that such a precautionary measure is not of a deterrent character, as well as personal commitment (Rogatynska, Kolodiichuk, 2018, p.178).

In addition to the above-mentioned precautionary measures, juvenile suspects or accused persons may be subject to a special precautionary measure, such as the transfer of juveniles under the supervision of their parents, guardians or tutors, in case of juveniles being brought up in a children's institution, their transfer under supervision of the administration of the institution (Criminal Procedure Code of Ukraine). It consists of a written undertaking by any of those persons or a representative of the administration of the children's institution to ensure that the juvenile suspect

or accused person is brought before the investigator, the prosecutor, the investigating judge, the court, if necessary, as well as his or her good conduct. The transfer under supervision of parents and other persons is possible only with their consent and the consent of the juvenile suspect or accused. A person who undertook to conduct supervision, shall have the right to refuse further fulfilling of this obligation, upon giving a notice thereon in advance (Criminal Procedure Code of Ukraine, 2012).

O.F. Vakulenko believes that such special precautionary measure, transfer under the supervision of parents, guardians, tutors, administration of the children's institution, is the most effective precautionary measure for juvenile suspects, accused (Vakulenko, 2015, p.96). This is due to the provision of the so-called Beijing Rules (United Nations Standard Minimum Rules for the Administration of Juvenile Justice), which stipulate that no juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary (United Nations Standard Minimum Rules for the Administration of Juvenile Justice). Within the family, the parents have not only the right but also the responsibility to care for and supervise their children. The separation of children from their parents is a measure of last resort, and may be resorted to only when the facts of the case clearly warrant this grave step (for example child abuse) (United Nations Standard Minimum Rules for the Administration of Juvenile Justice). S.V. Pastusheko believes that "a person (or persons) supervising a juvenile suspect or accused, should have his or her respect, be his or her authority, deal with the problems of the teenager, ensure control over his or her behaviour and the like" (Pastusheko, 2017, p.128).

The difficulties of transferring a juvenile suspect or accused person under the supervision, such as the complexity of the procedure of application; lack of understanding of the rights and obligations that should be respected by the "supervisors" etc. The analysis of this special precautionary measure enables to conclude that the list of basic precautionary measures provided for in article 176 of the CPC should be added.

It should be noted that a temporary precautionary measure is the detention of a person (the CPC, art. 176) (Criminal Procedure Code of Ukraine). A person who commits a criminal misdemeanour is detained for a maximum of three hours from the moment of actual detention. The authorized official who has carried out detention and the person conducting the initial inquiry shall immediately inform the person, in

a language he or she understands, of the grounds for the detention and of the criminal offence for which he or she is suspected of having committed, and explain his or her right to have a defence counsel, to receive medical assistance, to give explanations, to give evidence or not to say anything about the suspicion against him or her, to inform other persons immediately of his or her detention and whereabouts in accordance with the provisions of the CPC of Ukraine, to demand that detention be verified and other procedural rights (art. 298-2) (Criminal Procedure Code of Ukraine).

A juvenile offender may be detained and imprisoned only if the juvenile is suspected or accused of a grave crime or exceptionally grave crime, provided that the application of another precautionary measure will not prevent the risks provided for in article 177 of the CPC (Criminal Procedure Code of Ukraine).

An analysis of the legislative provisions in force and their use enables to assert the CPC of Ukraine does not regulate a significant number of problematic, controversial and unresolved issues, arising due to application of coer-

cive measures to a juvenile suspect or accused person during an initial inquiry.

#### 4. Conclusions

Procedural coercive measures are an extreme remedy applied only under certain conditions and circumstances. Coercive measures include precautionary measures which are considered "special sanctions" applied to a person who has not yet been found guilty by the court. Juveniles who have committed a criminal offence may be subject to such measures as personal commitment and personal warranty. A transfer under supervision of parents, guardians, tutors or the administration of a children's institution is considered to be a special precautionary measure. The main purpose of procedural coercive measures applied to a juvenile as a precautionary measure is to exert educational influence on the consciousness and behaviour of the juvenile offender. It is proposed to add to the list of main measures provided for in article 176 of the CPC of Ukraine a precautionary measure such as the transfer of a juvenile suspect or accused person under supervision to parents, guardians, tutors or the administration of a children's institution.

#### References:

- Cherniavskiy, S.S., Tsutskiridze, M.S., Dudarets, R.M. (2019). *Dosudove rozsliduvannia kryminalnykh prostupkiv [Pre-trial investigation of criminal offenses]*. Kyiv (in Ukrainian).
- Kerivni pryntsyipy zapobihannia zlochynnosti sered nepovnolitnikh (Er-Riiadski kerivni pryntsyipy): vid 14 hrud. 1990 roku [Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) of December 14, 1990]. (1990). *rada.gov.ua*. Retrieved from: [https://zakon.rada.gov.ua/laws/show/995\\_861#Text](https://zakon.rada.gov.ua/laws/show/995_861#Text) (in Ukrainian).
- Konventsiiia pro prava dytyny: vid 20 lyst. 1989 roku [Convention on the Rights of the Child of November 20, 1989]. (1989). *rada.gov.ua*. Retrieved from: [https://zakon.rada.gov.ua/laws/show/995\\_021#Text](https://zakon.rada.gov.ua/laws/show/995_021#Text) (in Ukrainian).
- Kornukov, V.M. (1978). *Meru protsessualnoho prynuzhdenyia v uholovnom sudoproizvodstve. [Coercive measures in criminal proceedings]*. Kyiv (in Russian).
- Kryminalnyi protsesualnyi kodeks Ukrainy: vid 13 kvit. 2012 roku № 4651-VI [Criminal Procedure Code of Ukraine of April 13, 2012 № 4651-VI]. (2012). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (in Ukrainian).
- Liash, A.O. (2010). *Zastosovuvannia prymusu pid chas provadzhenia slidchykh dii: navch. posibnyk dlia studentiv vyshch. navch. zakladiv [Use of a coercive measure during investigative actions]*. Kyiv (in Ukrainian).
- Lyst Vyshchoho spetsializovanoho sudu Ukrainy z rozghliadu tsyvilnykh i kryminalnykh sprav Pro deiaki pytannia zdiisnennia kryminalnoho provadzhenia shchodo nepovnolitnikh: vid 18.07.2013 № 223-1134/0/4-13 [Letter of the Supreme Specialized Court of Ukraine for Civil and Criminal Cases On some issues of criminal proceedings against juveniles from July 18, 2013 № 223-1134/0/4-13]. (2013). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/v1134740-13#Text> (in Ukrainian).
- Matskiv, H.Ia. (2008). Kryminalno-protsesualni stroky pry zastosuvanni zakhodiv protsesualnoho prymusu [Criminal procedural terms in the application of coercive measures]. *Candidate's thesis*. Kyiv (in Ukrainian).
- Minimalni standartni pravyla Orhanizatsii Obiednanykh Natsii, shcho stosuiutsia vidpravlennia pravosuddia shchodo nepovnolitnikh (Pekinski pravyla): vid 29 lystop. 1985 roku [United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) from November 29, 1985]. (1995). *rada.gov.ua*. Retrieved from: [https://zakon.rada.gov.ua/laws/show/995\\_211#Text](https://zakon.rada.gov.ua/laws/show/995_211#Text) (in Ukrainian).
- Pastushenko, S. V. (2017). *Zastosovuvannia zapobizhnykh zakhodiv do nepovnolitnoho pidozriivanoho, obvynuvachenoho. [Application of precautionary measures to a juvenile suspect or accused]*. Kyiv: Nats. akad. vnutr. Sprav (in Ukrainian).
- Pohoretskyi, M.A. (2007). Obgruntuvannia rishen pro zastosuvannia prymusovykh zakhodiv u kryminalnykh spravakh pro orhanizovanu zlochynnist. [Substantiation of decisions on the application of coercive measures in criminal cases of organized crime]. *Borotba z orhanizovanoiu zlochynnistiu i koruptsiieiu (teoriia i praktyka) – Fight against organized crime and corruption (theory and practice)*, 15, 3-14.

**Rohatynska, N., Kolodiichuk, N.** (2018). Zastosuvannia zapobizhnykh zakhodiv shchodo nepovnlitnoho: spektr nevyrishenykh pytan. [Application of precautionary measures against juveniles : a range of unresolved issues]. *Aktualni problemy pravoznavstva – Current issues of jurisprudence*, 4, 174-179. (in Ukrainian).

**Rozhnova, V.V.** (2003). Zastosuvannia zakhodiv protsesualnoho prymusu, poviazanykh z izoliatsiieiu osoby [Application of coercive measures related to the isolation of a person]. *Candidate's thesis*. Kyiv (in Ukrainian).

**Sivak, O.V.** (2014). Henezys stanovlennia y rozvytku zapobizhnykh zakhodiv shchodo nepovnlitnykh: vplyv istorychnykh chynnykiv na modernizatsiiu zakonodavstva v systemi zapobizhnykh zakhodiv. [Genesis of formation and development of precautionary measures against juveniles: the influence of historical factors on the modernization of legislation in the system of precautionary measures]. *Pravo i suspilstvo – law and society*, 4, 294-301 (in Ukrainian).

**Tarasova, I.V.** (2012). Zastosuvannia do nepovnlitnykh zapobizhnykh zakhodiv, shcho obmezhuuiut svobodu peresuvannia. [Application of precautionary measures to juveniles restricting freedom of movement]. *Pravnychiy visnyk Universytetu «KROK» – KROK University Legal Bulletin*, 13, 153–159. (in Ukrainian).

**Vakulenko, O.F.** (2015). Problemy zastosuvannia zapobizhnykh zakhodiv shchodo nepovnlitnykh. [Problems of application of precautionary measures against juveniles]. *Naukovyi visnyk Natsionalnoi akademii vnutrishnikh sprav – Scientific Bulletin of the National Academy of Internal Affairs*, 1, 91–99 (in Ukrainian).

**Олександра Камінська,**

ад'юнкт кафедри кримінального процесу, Національна академія внутрішніх справ, площа Солом'янська, 1, Київ, Україна, індекс 03035, a.immensely@gmail.com

ORCID: orcid.org/0000-0002-1524-0176

## ОСОБЛИВОСТІ ЗАСТОСУВАННЯ ЗАХОДІВ ПРОЦЕСУАЛЬНОГО ПРИМУСУ ПІД ЧАС ПРОВЕДЕННЯ ДІЗНАННЯ ЩОДО НЕПОВНОЛІТНІХ

**Анотація. Мета статті.** Метою наукової статті є аналіз наявних заходів процесуального примусу, що застосовуються до неповнолітніх під час проведення дізнання. **Методи дослідження.** Робота виконана з використанням загальнонаукових та спеціальних методів наукового пізнання, таких як: діалектичний, історико-правовий, формально-логічний, методи герменевтики, узагальнення, порівняння тощо. **Результати.** Невід'ємною частиною кримінального судочинства є захист прав неповнолітніх, недопустимість незаконного, необгрунтованого притягнення їх до кримінальної відповідальності. Необхідність дослідження і узагальнення тих заходів процесуального примусу, які є доречними у застосуванні до неповнолітніх, що вчиняють кримінальні проступки, і зумовила актуальність даної статті. Удосконалення та закріплення на законодавчому рівні найбільш гуманних запобіжних заходів, які повною мірою можуть забезпечити права і свободи неповнолітніх правопорушників, сприятимуть забезпеченню найкращих інтересів дітей, що перебувають у конфлікті з законом. Наголошено на наявності значної кількості проблемних, спірних та нерегульованих КПК України питань, що виникають під час застосування заходів процесуального примусу щодо неповнолітнього підозрюваного, обвинуваченого під час дізнання. **Висновки.** Заходи процесуального примусу є крайніми заходами впливу, що застосовуються за певних умов та обставин. До заходів процесуального примусу відносять запобіжні заходи, які вважаються «спеціальними санкціями», що застосовуються до особи, яку ще не визнано винною судом. Щодо неповнолітніх, які вчинили кримінальний проступок, то допускається застосування таких запобіжних заходів, як особисте зобов'язання та особиста порука. Спеціальним запобіжним заходом вважається передання під нагляд батькам, опікунам, піклувальникам чи адміністрації дитячої установи. Головним завданням процесуального примусу, що застосовується до неповнолітнього у вигляді запобіжного заходу, є виховний вплив на свідомість та поведінку неповнолітнього правопорушника. Пропонується додати до переліку основних запобіжних заходів, передбачених ст. 176 КПК України, такий запобіжний захід, як передання неповнолітнього підозрюваного, обвинуваченого під нагляд батькам, опікунам, піклувальникам чи адміністрації дитячої установи.

**Ключові слова:** примус, вплив, запобіжний захід, кримінальний проступок, досудове розслідування.

The article was submitted 10.03.2022

The article was revised 30.03.2022

The article was accepted 21.04.2022