

UDC 343.2

DOI: <https://doi.org/10.21564/2311-9640.2025.23.334318>

O. Kozachenko,

Doctor of Law, Professor, Director of
the Mykolaiv
Educational and Scientific Institute of
Law
National University «Odessa Academy
of Law»;

V. Kalytayev,

Postgraduate student of the Department
of Criminal
Law and other criminal and legal
studies of
the Mykolaiv Educational and
Scientific Institute of
Law National University «Odessa
Academy of Law»

CRIMINAL AND LEGAL MEASURES TAXONOMY IN THE DRAFT CRIMINAL CODE OF UKRAINE: RELATIVE DIMENSION

The article, based on the applied taxonomic approach to systematisation and classification of artificial (created by people) legal realities in the form of a relational model of socio-legal measures which are predicated on a standard system functionally oriented towards the exercise of legal influence on a person who has committed a tort or committed behaviour related to a tort, the author analyses its relational aspect. It is concluded that the relational aspect of the taxonomy is aimed at substantiating the proper terminology, defining the general substantive features and qualitative properties inherent in measures of legal influence regardless of their sectoral affiliation. The article identifies the features of the predicates of socio-legal impact in law, which are legal measures, among which the following are highlighted: 1) measures have an independent social and legal purpose, which is to regulate the behaviour of participants to social relations which has the characteristics of a tort; 2) measures are formed by combining general methods (encouragement and coercion) and a specific technique of necessary and sufficient influence on the person who committed a tort; 3) legal measures are aimed at exercising such regulatory influence that brings positive, specific and generally beneficial results to individual social relations (micro-level) and society and its institutions (macro-level). The publication denies the expediency of the approach chosen by the members of the Working Group on the Draft Criminal Law of Ukraine, which involves using the category 'means' as the substrate of all legal consequences of a criminal offence. The author uses

arguments from international legal, historical, and etymological considerations and the existing systemic, functional and interdisciplinary links in modern law to substantiate the scientific view.

Key words: *taxonomy of socio-legal measures; relational dimension of the taxonomy; criminal law measure; draft criminal law of Ukraine.*

Statement of the problem. The modern stage of development of law, which is marked by the accumulation by humanity of considerable experience in the application of legal influence as a reaction to torts to counteract them, multi-level diversification of such influence in the context of the emergence of new branches of law and legal institutions, which is dictated by the next stage of civilisational development of society; the latest level of implementation of the ideas of building a social and rule-of-law State and formation of civil society; further development of scientific ideas on the multi-track nature of legal influence which ceases to be a single track. Taxonomy is one of the most compelling scientific approaches that allow for solving this task in the current conditions of multi-level and multi-track legal influence. The taxonomy of legal measures, as a unique way of their systematisation and classification, is characterised by the unity of three interrelated aspects (trichotomy), each of which focuses on a separate manifestation of such systematisation and classification: predicate, functional and relational aspects of the taxonomy. The relational dimension of the taxonomy requires allocating a particular element as a substrate (primary element) of the legal influence exercised, which in its specific dimension provides external influence on a person's behaviour. Separate and special attention should be paid to the taxonomy of legal measures provided for by criminal law – criminal law measures, given not only their significant number and substantive diversity in modern criminal law but also the general trend towards their further increase in quantity and adjustment of their content in quality, as well as the severity (ability to restrict rights and freedoms significantly) of legal influence techniques in the course of their application.

Analysis of current research. It should be emphasised that criminal law measures in general and their structural components (types) remain the subject of

scientific research by many modern representatives of the criminal law doctrine of Ukraine. Among the studies are the scientific works of V. Batyrgareieva, Y. Baulin, V. Burdin, N. Gutorova, V. Holina, V. Hryshchuk, O. Dudorov, O. Kostenko, V. Merkulova, O. Naden, E. Pysmenskyi, Y. Ponomarenko, E. Streltsov, V. Tuliakov, V. Tiutiugin, P. Fries, M. Khavroniuk, P. Khryapinskyi, A. Yashchenko and many others. However, scientific developments focused on the study of various types of criminal law measures are of particular importance in the context of an integrated approach to the systematisation and classification of such measures, which is a taxonomy emphasising its relational aspect.

Objective. The purpose of this publication is to highlight the exclusively relational dimension of the taxonomy of criminal law measures in the context of the analysis of the draft criminal law, which must meet the requirements of ensuring a balance between the proven traditions and the necessary and appropriate innovations in the normative consolidation of the grounds for the application and the application itself of external forms of criminal law influence, which are various types of criminal law measures.

Main material. Taxonomy is a theory of systematisation and classification of complex artificial structures (created by people) legal realities in the form of a relational model of legal measures which predicated fit into a general system functionally oriented to the exercise of legal influence on a person who has committed a tort or committed behaviour related to a tort¹. In its turn, the relational aspect of the taxonomy is aimed at substantiating the proper terminology, defining the general substantive features and qualitative properties inherent in the measures of legal influence regardless of their sectoral affiliation. In the context of the topic of this publication, it is advisable to focus exclusively on forming an appropriate criminal law conceptual framework capable of ensuring the clarity of legal

¹ Kozachenko, O.V., Vasyliaka, O.K., Chornozub, L.V., Musychenko, O.M. (2020). Taxonomy of compulsory and incentive legal consequences (legal measures) of committing illegal acts. *Cuestiones Politicas*. Vol. 38. № 67. Especial (2da parte). P. 157. <https://produccioncientificaluz.org/index.php/cuestiones/article/view/34688> (accessed 11.11.2024).

provisions² and, as a result, their practical effectiveness in the course of application.

It should be emphasised that the term 'criminal law measure', despite its relatively long doctrinal and regulatory use, is perceived in criminal law science as an intuitive and, therefore, not requiring a strict legal definition category used in connection with the formulation of definitions of certain external forms of criminal law influence. It is evident that the category 'criminal law measure' is formed by combining the term 'measure', which indicates the type of the essential element of legal influence, and the indication of its branch of activity - criminal law. Thus, we can draw the following conclusion: a measure, as a socio-legal category, is the substrate (primary element) of any type of socio-legal influence on the behaviour of a subject of social relations and, therefore, requires mandatory definition.

As an external form of influence, a measure should be understood as a specific element of socio-legal regulation that substantively combines a system of general methods and a specific method of influence and is focused on obtaining a positive socially significant result³.

Thus, the measure has the following features as an external manifestation of social and legal influence.

Firstly, it is defined (in the legal sphere) or perceived (outside legal regulation) as an independent social and legal phenomenon used to regulate the behaviour of participants in social relations, which has the characteristics of a tort when it comes to the legal sphere, and antisocial deviant behaviour (deviation) when it comes to actions in the social sphere in general.

Secondly, each social and legal measure is formed based on a combination of methods and a specific technique of necessary and sufficient influence on a person with behaviour that deviates from social and legal requirements.

² Musychenko, O., Streltsov, Y., Kozachenko, O., Vasyliaka, O., & Chornozub, L. (2021) Intelligibility of a criminal law: Theoretical and practical aspects. *Amazonia Investiga*. № 10 (44). P. 92–102. URL: <https://amazoniainvestiga.info/index.php/amazonia/article/view/1714/1863> (accessed 11.11.2024).

³ Kozachenko, O.V. (2011) Kryminalno-pravovi zakhody: kulturo-antropolohichniy vymir [Criminal and legal measures: cultural and anthropological dimension]. Mykolaiv: Ilion, P. 219 [in Ukrainian].

Traditionally, there are two independent but dichotomous social and legal influence methods – encouragement and coercion. Coercion, as one of the ways of external influence on a person's behaviour, is characterised by its use of being indifferent to the person's desire to be subjected to such influence.

Coercive influence is a restriction of certain freedoms and opportunities to satisfy one's own interests by a person who has committed deviant behaviour, restrictions that would not have been imposed on the person if he or she had not committed such behaviour. Instead, encouragement as a way of social and legal influence is directly dependent on the initiative behaviour of a person. It is formed based on his/her awareness of the need for voluntary self-restriction of the freedoms and own interests or on events that do not depend on the will of the person who committed deviant behaviour, but the occurrence of which reduces the social danger of both the behaviour itself and the person who committed it. In turn, encouragement and coercion, as methods of socio-legal influence, form two possible models of behaviour of the subject of influence – voluntary and compulsory. Given the fact that the paradigm of modern social and legal regulation is based on the principles of anthropodicy, which requires a change in the focus of social and legal regulation from collective subjects (the State, society, community, etc.) to a person whose freedom and interests rise to the level of the core factor of social existence in various forms of its existence⁴, it is necessary to emphasise the priority of encouragement over coercion.

Thus, a measure of socio-legal influence should contain either exclusively encouragement of a specific type of behaviour or encouragement and coercion and the latter method of regulation is applied only if the subject fails to comply with the requirements and obligations to comply with the requirements for positive social behaviour voluntarily. In turn, the method of socio-legal influence reflects unique, specific features inherent in each measure of socio-legal influence related

⁴ Kozachenko, O.V. (2008) Antropodytseia yak pidgruntia dlia pidvyshchennia efektyvnosti kryminalnoho prava [Anthropodicea as a basis for improving the effectiveness of criminal law]. *Kryminolohiia v Ukraini ta protydiia zlochynnosti: zbirnyk naukovykh statei*. [Criminology in Ukraine and Counteraction to Crime: a collection of scientific articles]. Library of the journal 'Legal Bulletin'. Odesa, 130–135 [in Ukrainian].

to the substantive characteristics of the influence itself. For example, such a type of criminal law measure as compulsory treatment is characterised by the use of influence aimed at eliminating the symptoms of a disease that is dangerous to other people's health (medical influence). It should be emphasised that methods and techniques of social and legal influence are the dominant features of any measure of influence. In contrast, the methods embody the methods of influence on social relations, and the technique reflects the nature and content of such influence.

Thirdly, socio-legal measures aim to exercise such regulatory influence that brings a positive, specific and generally beneficial result to individual social relations (micro-level), society, and its institutions (macro-level). This feature ensures a direct link between the relational and functional manifestation of the taxonomy of measures of influence on deviant behaviour.

These features acquire certain peculiarities in the process of using a measure as an element of external influence in the legal domain, and this is obvious and consistent given the fact that only law determines the most dangerous type of deviant behaviour of a person - torts, which are unlawful acts of a tortious person for which the application of measures provided for by the rules of law, i.e. legal measures, is envisaged. Within the framework of legal regulation of tortious behaviour, a special place is occupied by criminal law measures applied to a person who has committed a tort with a high level of public danger (criminal offence) and, in terms of methods and techniques of legal influence, are among the most severe of all normatively defined measures of legal influence (punishment, compulsory medical measures, etc.).

Some Ukrainian representatives of criminal law science, who have addressed the problem of defining the basic concepts of criminal legal influence, propose to choose a specific essential element similar to the category of 'measure' as the dominant one and formulate definitions based on it.

So, for example, Professor A.M. Yashchenko suggests that under measures of a criminal nature, which substantively coincide with the category of criminal

law measures, we should understand "means (remedies) of influence, which are provided for by the law on criminal responsibility for the commission of a criminal or outwardly similar act or a socially dangerous act, provided for by a special part of this law, related to restrictions or deprivation of the most important rights and freedoms for a person, or the release of a person from criminal liability and punishment or, even in general, with her not being brought to such responsibility, and aimed at achieving socially useful goals"⁵. In his turn, Doctor of Law Y. Ponomarenko proposes to understand criminal law measures as the means which are 'restrictions of a person's rights or imposition of additional obligations on him/her determined by the criminal law, which are subject to application by the court to a person who committed a criminal offence or other unlawful act provided for by the Criminal Code, in order to achieve the purpose of criminal law'⁶. This approach is subject to criticism because, in the process of its application, the definition of a criminal law measure does not become clearer or more specific since its formulation uses the abstract category of 'means', which requires its dependent definition.

Despite the apparent shortcomings, this scientific approach has been further developed in the draft Criminal Code of Ukraine and requires a more detailed analysis.

On the one hand, the draft criminal law of Ukraine, which is to become one of the bare legal acts in the system of regulations designed to cover the entire system of Ukrainian tort law, attempts to unify the concepts used to determine various types of legal consequences of a criminal offence. Such an intention of the representatives of the Working Group on the Draft Criminal Law of Ukraine is to

⁵ Yashchenko, A.M. (2013) Zakhody kryminalno-pravovoho kharakteru: poniattia, zmist i sutnist [Measures of criminal law nature: concept, content and essence]. *Forum prava [Forum of Law]*. № 3. P. 781 [in Ukrainian].

⁶ Ponomarenko, Y.A. (2023) Rozvytok instytutu kryminalno-pravovykh zasobiv: nastupnist i novatsii [Development of the Institute of Criminal Law Remedies: Continuity and Innovation]. *Nastupnist u kryminalnomu pravi: do 70-richchia prof. Yu. V. Baulina: materialy naukov. konf. [Continuity in Criminal Law: to the 70th anniversary of Prof. Y. V. Baulin]*: materials of the scientific conference (Kharkiv, 8 September 2023) / edited by Y. Ponomarenko (chairman), O. Kharytonova, N. Maslak and others; Yaroslav Mudryi National Law University, Department of Criminal Law. Kharkiv: Pravo. P. 187 [in Ukrainian].

be welcomed, as it ensures the formation of a systematic understanding of all legal consequences of criminal conduct, on the one hand, and, on the other hand, indicates the possibility of further systematisation and classification of legal measures applied to persons who have committed a criminal offence.

It is clear that such a system's development is impossible without determining the substrate (primary element), which, having specific additional properties, can be transformed into certain types of criminal legal measures. The authors of the draft criminal law of Ukraine, among the various proposals of researchers, preferred the least studied term 'means', justifying their choice by the desire to use the approach common in tort law, according to which various means are used in the process of counteracting torts or preventing tort manifestations, which have legal, organisational and other forms.

Using the category 'means' as the substrate of all legal consequences of a criminal offence raises several counterarguments, considering international legal, historical, and etymological considerations and the existing systemic, functional and interdisciplinary links in modern law⁷. Let us consider each of these aspects in more detail.

In modern international law, when defining the system of techniques and methods of exercising a legal influence on a person who has committed a tort or in a situation related to it, the term measures is used in the plural, which gives grounds to conclude that the term measures in the singular is used to denote the substrate of the external form of legal influence. Let us take as an example one of the most recently signed Council of Europe conventions on preventing and combating violence against women and domestic violence, better known as the Istanbul Convention⁸ in the official text of the Convention, which is translated into English in the titles of specific chapters (e.g. Chapter II 'Investigation, prosecution,

⁷ Kozachenko, O. (2024). *Taksonomiia kryminalno-pravovykh zakhodiv* [Taxonomy of criminal law measures]. *Taksonomiia pravovykh zakhodiv n[Taxonomy of legal measures]* / za red. prof. O. Kozachenka. [ed. by Professor O. Kozachenko]. Mykolaiv: Ilion. P.320 [in Ukrainian].

⁸ Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210). URL: <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=210> (accessed 11.11.2024).

procedural law and protective measures'), articles (e.g. Art. 63 'Measures relating to persons at risk'), and in the dispositions of specific legal provisions (e.g., Article 4(1) 'Parties shall take the necessary legislative and other measures to promote and protect the right for everyone'), the term measure, which translates into Ukrainian as 'захід', is used as a substrate (primary element). Similar to English is the term's origin in French 'mesure', Italian 'misura' and German 'Maßnahmen'.

The application of the method of historicism gives some idea of the origin of the term 'measure'. Criminal law, at least in the recent history of its existence, has accumulated considerable experience using terms and categories, among which the category under study occupies a special place. Firstly, a criminal law measure is an independent form of external criminal law influence (compulsory medical and educational measures, criminal law measures against legal entities, restrictive measures) reflected in the current criminal law. Secondly, the category of criminal law measure is the basic one when the criminal law doctrine defines such external forms of criminal law influence which do not use the term 'measure' in their names (punishment, conviction, compulsory treatment, etc.). However, in content, they are such measures, as indicated in the draft criminal law of Ukraine. Thirdly, the category under study allows us to determine the range of such external forms of criminal legal influence that are not reasonably attributed by the doctrine and legislation to legal measures of other sectors (preventive and preventive, restitution and compensation measures, etc.). A fundamental change in the term used to determine the legal effect should have, among other things, a historical justification if the purpose of formulating a new criminal law is to ensure historical continuity. It seems that if a new term, according to the literature, needs to be introduced, it is advisable to justify such a novelty while proving that the term used previously does not meet the requirements of reforming criminal law.

To clarify their position on this issue, the authors of the draft criminal law of Ukraine emphasise that the term 'means' is a traditional term for any influence exercised by an entity vested with power. However, when entering into a

discussion with such a statement, it should be noted that this approach to the use of the term 'means' is because the subject of state power, in the course of its functioning, uses a significant number of different forms of its activity, among which legal forms are not the only ones. Even when it comes to them, the State's ability to determine the legal consequences of tortious conduct is only a separate manifestation of legal regulation.

The etymological aspect of the subject of discussion also requires special attention. A look at the origin of the term 'means' used in the draft criminal law of Ukraine informs that 'means' etymologically means a technique, some particular action that makes it possible to do something, to achieve something; something that serves as an instrument in some action, business. The definition is given in the Academic Dictionary of the Ukrainian Language in 11 volumes edited by Academician Ivan Bilodid, published in 1972⁹. According to the generally accepted definition, when it comes to the use of several methods and techniques of legal influence in the aggregate, this definition of a criminal law measure is the most meaningful since it embodies incentive and coercive influence as two ways of regulating a person's behaviour and a technique of legal influence (in fact, a means of legal influence), it is etymologically appropriate to use the term 'measure', which covers the entire set of methods and techniques (means) of legal influence, thereby forming the internal architecture of this measure.

The systemic and functional approach allows for an analysis of both the source of criminal law itself and the sources of other branches and individual legal disciplines. A review of the provisions of the draft criminal law indicates that the authors allow the use of homonyms, which negatively affects the understanding of both individual provisions and the law as a whole. For example, in the draft criminal law of Ukraine (Article 2.2.8), the term 'means' is used to define things, information or energy used by a subject to influence an object, victim or object or

⁹ Slovník ukraïnskoi movy v 11 tomakh (1971) / [za zah. red. I. K. Bilodida]. [Dictionary of the Ukrainian language in 11 volumes / [edited by I.K. Bilodid]]. Kyiv: Naukova Dumka, T. 3: D–Z. P. 181 [in Ukrainian].

to facilitate the commission of a criminal offence, and in clause 2 of Article 6.1.2 to define the object with which a payment transaction is carried out. It is worth noting that this approach does not raise any objections, considering the developments of the criminal law doctrine in determining optional features of the objective side of a criminal offence, among which the means of committing a criminal offence occupy a special place. Such an approach is also justified from the perspective of the etymological origin of the term 'means', which was cited above. It seems that the simultaneous use of one lexeme with different meanings, i.e. homonyms, does not add to the legal certainty and clarity of the provisions of any legal act¹⁰. However, it is directly unacceptable in relation to criminal law, given the severity of the consequences provided for the persons who have committed criminal offences.

The existing interdisciplinary links also require special attention. In general theoretical jurisprudence and certain branches of law, the term 'measures of legal (or measures of the relevant branch) influence' is used. For example, criminal procedural legislation, as the closest to criminal law, regulates measures to ensure criminal proceedings, which have not only a structure similar to criminal law measures: statutory grounds for application, objectives, subject composition, procedural procedure determined by law, but also similar features that were discussed earlier. Thus, the term 'criminal law measure' aligns with the general trends in developing modern Ukrainian legal theory and the regulatory provisions of various branches of law. An attempt to use the term 'measure' as a primary category in criminal law will create preconditions for the artificial autonomisation of criminal law.

Conclusions. Summing up the study of the relational dimension of the taxonomy of criminal law measures and the possibility of using the term 'means' in the future criminal law as a substrate (primary element) of external forms of

¹⁰ Musychenko, O.M. (2021) Zrozumilist suchasnoho kryminalnoho zakonu [Clarity of modern criminal law]. Mykolaiv: Ilion. P. 181 [in Ukrainian].

criminal law impact, it should be emphasised that, firstly, the taxonomic approach to the systematisation and classification of social and legal measures as consequences of tortious acts requires universalisation of external forms of impact, which begins with the definition of proper terminology, and secondly, the novelties of criminal law should be assessed not so much from the standpoint of the desire to bring something uniquely subjective to criminal law, something that corresponds to personal scientific achievements, but should be based on the principles of objective research of both the need and expediency of applying the relevant novelties and their compliance with the traditions of national legal regulation that have proven their vitality.

REFERENCES

1. Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210). URL: <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=210> (accessed 11.11.2024).
2. Kozachenko, O.V., Vasyliaka, O.K., Chornozub, L.V., Musychenko, O.M. (2020). Taxonomy of compulsory and incentive legal consequences (legal measures) of committing illegal acts. *Cuestiones Politicas*, 38(67). Especial (2da parte), 151–168. URL: <https://produccioncientificaluz.org/index.php/cuestiones/article/view/34688> (accessed 11.11.2024).
3. Kozachenko, O. (2024). Taksonomiia kryminalno-pravovykh zakhodiv [Taxonomy of criminal law measures]. *Taksonomiia pravovykh zakhodiv [Taxonomy of legal measures]* / za red. prof. O. Kozachenka. [ed. by Professor O. Kozachenko]. Mykolaiv: Ilion, 312–349 [in Ukrainian].
4. Kozachenko, O.V. (2008). Antropodytseia yak pidgruntia dlia pidvyshchennia efektyvnosti kryminalnoho prava [Anthropodicea as a basis for improving the effectiveness of criminal law]. *Kryminolohiia v Ukraini ta protydiia zlochynnosti: zbirnyk naukovykh statei. [Criminology in Ukraine and Counteraction to Crime: a collection of scientific articles]*. Library of the journal 'Legal Bulletin'. Odesa, 130–136 [in Ukrainian]/
5. Kozachenko, O.V. (2011). Kryminalno-pravovi zakhody: kulturo-antropolohichni vymir. [Criminal and legal measures: cultural and anthropological dimension]. Mykolaiv: Ilion, 504 p. [in Ukrainian].
6. Musychenko, O., Streltsov, Y., Kozachenko, O., Vasyliaka, O., & Chornozub, L. (2021). Intelligibility of a criminal law: Theoretical and practical aspects. *Amazonia Investiga*, 10(44), 92–102. URL:

<https://amazoniainvestiga.info/index.php/amazonia/article/view/1714/1863>
(accessed 11.11.2024).

7. Musychenko, O.M. (2021). Zrozumilist suchasnoho kryminalnoho zakonu [Clarity of modern criminal law]. Mykolaiv: Ilion. 308 p. [in Ukrainian].
8. Ponomarenko, Y.A. (2023). Rozvytok instytutu kryminalno-pravovykh zasobiv: nastupnist i novatsii [Development of the Institute of Criminal Law Remedies: Continuity and Innovation]. *Nastupnist u kryminalnomu pravi: do 70-richchia prof. Yu. V. Baulina: materialy nauk. konf. [Continuity in Criminal Law: to the 70th anniversary of Prof. Y. V. Baulin]: materials of the scientific conference* (Kharkiv, 8 September 2023) / ed. by Y. Ponomarenko (chairman), O. Kharytonova, N. Maslak and others; Yaroslav Mudryi National Law University, Department of Criminal Law. Kharkiv: Pravo. 187–194 [in Ukrainian].
9. Slovyk ukrainskoi movy v 11 tomakh (1971). / [za zah. red. I.K. Bilodida]. [Dictionary of the Ukrainian language in 11 vol. / [edited by I.K. Bilodid]]. Kyiv: Naukova Dumka, Vol. 3: D–Z. 550 p. [in Ukrainian].
10. Yashchenko, A.M. (2013). Zakhody kryminalno-pravovoho kharakteru: poniattia, zmist i sutnist [Measures of criminal law nature: concept, content and essence]. *Forum prava*, 3, 775–783 [in Ukrainian].

Козаченко О. В., Калитаєв В. В. Таксономія кримінально-правових заходів у проєкті Кримінального кодексу України: реляційний вимір

У статті, на підставі застосованого таксономічного підходу до систематизації та класифікації штучних (створених людьми) правових реалій у формі реляційної моделі соціально-правових заходів, які предикатно укладаються у загальну систему, функціонально орієнтовану на здійснення правового впливу на особу, яка вчинила делікт або допустила поведінку, пов'язану з деліктом, здійснено аналіз її реляційного аспекту. Зроблено висновок, що безпосередньо реляційний аспект таксономії орієнтований на обґрунтування належного термінологічного забезпечення, визначення загальних змістовних ознак та якісних властивостей, притаманних заходам правового впливу незалежно від їх галузевої належності. В статті виділено ознаки предикати соціально-правового впливу в праві, якими виступають правові заходи, серед яких виділяються наступні: 1) заходи мають самостійне соціально-правове призначення, що полягає в регулюванні поведінки учасників суспільних відносин, якій притаманні ознаки делікту; 2) заходи формуються шляхом поєднання загальних способів (заохочення та примус) та конкретного прийому необхідного і достатнього впливу на особу, яка вчинила делікт; 3) правові заходи мають за мету здійснення такого регулятивного впливу, який приносить окремим суспільним відносинам (мікрорівень) та суспільству і його інституціям (макрорівень) позитивний, конкретно- та загальнокорисний результат. В публікації заперечується доцільність обраного членами Робочої групи по формуванню проєкту кримінального закону України підходу, який передбачає використання

категорії «засіб» як субстрату всіх правових наслідків вчинення кримінально-протиправного діяння. Для обґрунтування наукового погляду використовуються аргументи, що виведені з міжнародно-правових, історичних, етимологічних міркувань, наявних системно-функціональних та міждисциплінарних зав'язків у сучасному праві.

Ключові слова: *таксономія соціально-правових заходів; реляційний вимір таксономії; кримінально-правовий захід; проєкт кримінального закону України.*