



**T. Luzan,**

Postgraduate Student,  
Department of Civil Law and Procedure,  
Ivan Franko National University of Lviv

## **ISSUE IN LAW AS A CRITERION OF DIVISION OF CASES OF CIVIL JURISDICTION**

This is well known that rights and freedoms of humans and citizens are protected by the courts. Every person, who considers that his rights, freedoms or interests are violated, challenged or unadmitted may apply to the court for their protection on civil process. This scientific article is devoted to the problems associated with criterions of division of cases of civil jurisdiction. One of them is the criterion of presence or absence of issue in law.

The author analyses different positions related to such a legal problem. The supporters of one position confirm that all personal and property rights of citizens, their occurrence, modification or termination, are always associated with specific circumstances (legal facts). In turn, legal facts always stipulate certain subjective rights. It means that an issue

in legal facts causes an issue in law and they cannot be disassociated, as judicial ascertainment of the certain legal fact is not fulfilled as goal itself, but for rights inextricably connected with this fact.

However, the author considers that there is no issue in law in the ex parte proceeding, but an issue in the legal facts is possible. Transformation of the ex parte proceeding in the litigious proceeding is possible only when there is the direct liaison between the ascertainment of legal fact with necessity to resolve the material and legal dispute. Namely, if an applicant submits an application for the ascertainment of legal fact on purpose to resolve the issue in law on the basis of such a court's decision as long as this issue in law cannot be determined without ascertainment of such a legal fact.

