

# LAW1101 Theory of State and Law

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## Code

LAW1101

## Title

Theory of State and Law

## Prerequisites

No

## Credits

3

## Description

This course is aimed at introducing the students to the main important concepts and principles of the theory of state and law (TSL) as a legal discipline. The fundamental nature of TSL as a juridical science the mastery of which is necessary for all legal branch sciences as well as special legal sciences, is explained. The interaction between the two key concepts of TSL, the state and the law will be clarified. A number of major theories (schools of thought) that describe the origin / emergence and nature of the state and the law are analyzed including natural law and contractual theory, libertarian juridical theory, positivist theory, economic theory, psychological theory and others. The course in particular provides a systematic description of TSL and presents its conceptual definition. It discusses the main characteristics and typology of the state, its forms, functions, mechanisms as well as its place within the political and non-political systems of society. The course further deals with the law in the system of social regulators; it explains the nature, content, form, sources, structure, realization, application and interpretation of the law and legal norms. The dichotomy of the law as ius and the law as lex (leges) is reviewed. Students will get familiar with such key notions as lawful behavior, violation of the law, legal responsibility, and legal awareness and culture. The differences between Western and non-Western conceptions of the legal theory will be comparatively looked at, followed by a critical discussion of TSL as a legal science as understood in Kazakhstan and post-Soviet space. The main aim of the course would thus consist in providing the students with, first, a balanced perspective on this crucial discipline combining both theoretical and practical approaches, and second, with analytical tools to reflect critically on the major concepts of law pertinent for all legal disciplines.

## Objectives

Despite the wide coverage and fundamental nature of its content, the course is rather interactive; hence the student preparation and participation are important. The students are expected to read the assigned materials, ask questions and show active engagement during the class. This is so since the lectures are aimed, inter alia, at solving the doubts or uncertainties that may arise during the scrutiny and discussion of the topic(s) at stake. Furthermore, students' self-study is significant in the learning process: they are welcome to conduct additional research, consult extra materials, works, books, etc.

## Outcomes

Upon successful completion of the course, students will be able to: 1 Knowledge outcomes - obtain theoretical but also practical knowledge of the main notions, conceptions, principles, institutions, doctrines, systems as well as fundamental terminology of TSL with a view to further applying it in the study and practice of other legal disciplines, either branch or specific legal sciences, and in preparation for their future careers - develop their understanding of the place and role the TSL plays in the general structure of legal sciences and also of its relationship with other, non-legal sciences (i.e., its inter-disciplinary dimension) - acquire knowledge of a number of important doctrinal approaches to TSL prevalent at the contemporary stage of the development of law - familiarize themselves with the academic literature and legal sources pertinent to TSL 2 Skills outcomes - learn how to organize their own learning programme and manage their time effectively - learn how to assimilate large amounts of material and extract from it relevant information to successfully prepare for and complete each seminar and written assignment - learn to listen and interact effectively in class - learn how to engage and reflect critically on issues related to theoretical and practical discussion of the law - learn to express their ideas coherently and logically, both orally and in writing - hone their problem-solving skills as well as the ability to generate practical ideas for the solution of legal problems 3 Values and behavior outcomes - appreciate different theories of state and law by becoming aware of a variety of factors affecting their emergence and development - appraise state and legal theories, norms and mechanisms in a more objective and critical way

## Assessment

60 % -first and second assessments

40 % -final assessment

## Tentative course outline

### Week1

Introduction to the course

### Week2

The evolution of the ideas of law

### Week3

Major theories / conceptions of the state and law

**Week4**

The state: definition, typology, major characteristics

**Week5**

Functions and mechanism of the state

**Week6**

The state, society and state of law (Rechtsstaat)

**Week7**

The law: concept, nature, principles and theories

**Week8**

Sources of the law

**Week9**

System of the law and its structure

**Week10**

Major contemporary legal systems

**Week11**

Operation of the law

**Week12**

Interpretation of the law

**Week13**

Legal relationship

**Week14**

Lawful / unlawful behavior and legal responsibility

**Week15**

Legal awareness and legal culture