

Financial Rights of Shareholders in Limited Liability Companies

Shareholders of Limited Liability Companies ("LLC") have certain rights and obligations arising from their shareholding capacity. Shareholder rights in LLC are categorized under two headings: financial rights and participatory rights. This article examines the financial rights of the shareholders which refer to the rights on the financial assets of the company as a result of the shares held by the shareholders.

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Dividend Right

Main purpose of an LLC, like other types of companies, is to make a profit and to distribute it among the shareholders. The shareholders of an LLC are entitled to a share of the net profit generated according to the annual balance sheet of the company. The dividend is calculated in proportion to the nominal value of the share capital, to the extent that additional payment liabilities are stipulated and fulfilled in the Articles of Association ("AoA"), and the value of these additional payment liabilities shall also be included in the nominal value.

Dividends may be distributed only from the net profit for the fiscal year and from the reserves set aside for purpose of dividend distribution. However, in accordance with the principle of preservation of capital, the existence of losses in the balance sheet of the previous year prevents the distribution of annual dividends.

The right to receive dividends is an inalienable right of the shareholders; therefore, the right of the shareholders to receive dividends cannot be taken away by a provision included in the AoA.

Right to Liquidated Assets

Liquidation is the process by which a company begins the process of dissolution and provides for the closure of all accounts to cease its activities. Once the liquidation is completed, the assets remaining after the dissolution of the company are distributed among the shareholders in proportion to their share of the capital. However, different rules may be stipulated in the AoA contrary to the general principle.

It is not possible to vest shareholders with the right to liquidation share as long as the company continues to operate.

Pre-Emption Right

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In the event that the company issues new capital shares, the shareholders of the company have a prioritized right to purchase the new shares in proportion to their capital shares unless otherwise stipulated in the AoA or in the resolution in relation to capital increase. In this regard, the principle of equal treatment must also be observed.

The pre-emption right may be limited or revoked only in the presence of justified reasons, by a resolution of the general assembly ("GA"). GA resolution must be taken with at least two-thirds of the votes represented in the meeting and an absolute majority of the entire share capital with voting rights.

Veto Right-Right of Superior Vote

Turkish Commercial Code ("TCC") stipulates that an LLC may grant a veto right to certain shareholders or determinable shareholders, or a superior voting right to certain shareholders in the event that the votes are equal as a result of any GA resolution. In order for the veto right to be exercised, it must be set forth in the AoA.

Right to Transfer Capital Shares

LLC shareholders have the right to transfer their shares, and the transfer of the capital shares signifies the transfer of the status of shareholder. This is a natural consequence of the fact that a commercial partnership is a legal entity independent of the persons who form it. This right can be restricted or removed by the AoA of the company, but even in such a case, it is still possible to withdraw from the shareholding with justified reasons.

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