M&A PLAYBOOK

by VARDAR | ŞANLI

No.1

DEAL MECHANICS

Practical Insights for Corporate Transactions

SHARE OPTION AGREEMENTS

Share option agreements are an effective incentive mechanism used by companies to motivate key employees, align performance with the company's long term strategic objectives, and strengthen organizational commitment. Particularly where high cash compensation is not sustainable or preferred, such arrangements align interests by enabling employees to participate directly in the company's growth in value. In this respect, share option plans represent not merely a compensation model, but a structure that reinforces a long term partnership between the company and its employees.

For many years, share option agreements have been widely utilized in developed markets, particularly in the United States and across Europe. Under these arrangements, employees are granted the right to acquire company shares at a predetermined price, subject to specified performance criteria or vesting conditions. This structure enables employees to participate directly in the company's growth in value, while offering companies an effective mechanism for talent retention and sustainable long term value creation. Unlike traditional bonus or salary increase schemes, share options create a direct alignment between the employee's economic interests and the company's long term performance, thereby fostering a stronger sense of ownership and commitment.

SHARE OPTION AGREEMENTS

Particularly in start ups and technology companies, where human capital rather than tangible assets constitutes the primary source of enterprise value, share options stand out as a strategically significant incentive instrument. In practice, share option agreements are typically structured around a three stage system. At the first stage, the employee is granted an option right subject to certain conditions. At the second stage, a vesting process operates, contingent upon continued employment for a specified period or the fulfillment of predetermined performance criteria, through which the option is earned. At the final stage, the employee exercises the vested option and acquires the company shares at a pre determined exercise price. In addition to this classical structure, alternative models also exist under which, upon the occurrence of certain conditions, vesting is deemed to occur directly and automatically without the need for a separate exercise declaration.

In the preparation of share option agreements, vesting conditions and periods, the treatment of options upon termination of employment, the valuation of the shares, provisions applicable in exit scenarios, the scope of shareholder rights, and the tax implications of the agreement should be carefully considered. From the employee's perspective, the economic value of the shares acquired may not always translate into a tangible gain at the time of vesting. In privately held companies, the inability to freely transfer shares or find a purchaser may prevent the employee from generating income through a sale, even if share ownership has been obtained. From the company's perspective, where options are exercised through a capital increase by issuing new shares, the proportional shareholding of existing shareholders may decrease, resulting in dilution of voting rights and dividend entitlements. Accordingly, in designing an option plan, it is important to establish a balanced structure that incentivizes employees and safeguards the interests of existing shareholders.

Although there is no comprehensive and specific statutory regulation dedicated exclusively to share option agreements in Türkiye, such arrangements may be structured within the framework of the Turkish Commercial Code No. 6102 and the relevant secondary legislation, particularly by taking into account provisions relating to capital increases, the registered capital system, share transfers, and rights attached to shares. In practice, it is frequently observed that, with respect to the Turkish subsidiaries of multinational companies, option plans established at the level of the foreign parent company are adapted to comply with local legal requirements.

In conclusion, although share option agreements currently have limited prevalence in Türkiye, they are among the corporate instruments expected to gain greater prominence with the increase in foreign investment, the development of the entrepreneurial ecosystem, and the deepening of a competitive labor market. When properly structured, such agreements offer a strategic mechanism that serves both to enhance corporate value and to retain qualified human capital.