

An Examination of Angel Investor Agreements in Startup Companies from the Perspective of Turkish Commercial Law

Pelin Atila Yörük

Ankara University, Faculty of Law,
Justice Vocational School, Ankara

Abstract: This study provides an in-depth examination of angel investor agreements, which play a critical role in financing the dynamic startup ecosystem, from the perspective of Turkish Commercial Law (TCL). The inadequacy of traditional financing models to address the high-risk nature of early-stage ventures has made angel investors a strategic source of capital. The study analyzes the legal nature of these atypical and complex agreements in light of the TCC, the Turkish Code of Obligations (TCO), and Capital Markets Board (CMB) circulars. In particular, it addresses the legal validity and implementation issues of fundamental provisions such as investment amounts, share ratios, management rights, exit strategies, and dispute resolution mechanisms. It focuses on the controversial status of provisions such as drag-along and tag-along in Turkish law and possible legal solutions. The article emphasizes the importance of comprehensive legal due diligence, clear and unambiguous contract language, professional legal advice, and complementary instruments such as shareholder agreements. The aim is to contribute to the creation of a solid legal foundation that allows angel investors to secure their capital while enabling startups to fully realize their innovative potential.

Keywords: Angel Investor, Startup, Commercial Law, Turkish Code of Obligations.

1. Introduction

The startup ecosystem, one of the driving forces of today's economy, is a dynamic field where innovation and entrepreneurship converge. The sustainability of this ecosystem and its position in global competition are directly linked to access to effective financing models.¹ This is because the high risk and inherent uncertainties associated with early-stage ventures prevent traditional banking and corporate financing tools from fully meeting the unique needs of these companies. It is precisely at this point that angel investors emerge as key players, not only providing vital capital for startups but also accelerating their growth momentum by offering strategic support, mentorship, and an extensive business network.² This multifaceted contribution from angel investors is crucial in helping startups overcome their initial critical growth stages and establish their sustainability in the market.

Angel investor agreements, which form the legal basis of this complex and dynamic investment relationship, require in-depth legal examination, particularly within the Turkish legal system, primarily under Turkish Commercial Code No. 6102 (TCC), Turkish Code of Obligations No. 6098 (TCO), and relevant circulars issued by the Capital Markets Board (CMB).³ Indeed, the atypical and complex nature of these agreements raises significant issues regarding the legal interpretation and enforceability of their provisions. The increase in the number of startup companies in Turkey has necessitated the diversification of financial mechanisms supporting the entrepreneurial ecosystem. In this context, angel investors, who provide the capital needed by early-stage ventures, have become an important actor in the entrepreneurial ecosystem. However, the nature of the legal relationship established between angel investors and entrepreneurs has not yet been clarified, particularly within the scope of the Turkish Commercial Code (TCC) and the Turkish Code of Obligations (TCO).⁴ The fact that these agreements are generally governed by general provisions creates uncertainty between the parties.

This article examines the legal nature of angel investor agreements entered into by startup companies, their characteristic provisions, the mutual rights and obligations of the parties, potential legal disputes that may arise, and the mechanisms for resolving such disputes from an academic perspective, in light of the mandatory provisions of the Turkish Commercial Code and other relevant legislation. In particular, it provides detailed

¹ Hasan Pulaşlı, *Girişim Sermayesi ve Alternatif Finansman Modelleri* (İstanbul: Beta Yayıncılık, 2024), 12.

² Zeynep Aytaç, "Melek Yatırımcı Sözleşmelerinin Hukuki Niteliği ve Temel Hükümleri," *Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi* 27, sy. 1 (2021): 187.

³ Sabih Arkan, *Ticari İşletme Hukuku*, 29. Baskı (Ankara: Banka ve Ticaret Hukuku Araştırma Enstitüsü, 2024), 89.

⁴ Ayşe Öztürk, "Yatırım Sözleşmelerinde Uygulama Sorunları ve Çözüm Önerileri," *Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi* 26, sy. 1 (2020): 2.

analyses of legal issues frequently encountered in practice, focusing meticulously on existing solutions within the Turkish legal system and possible recommendations for improvement. By presenting a comprehensive analysis in light of court decisions, doctrinal opinions, and current legislation, the article aims to serve as an informative guide for both legal practitioners and all stakeholders in the startup ecosystem regarding the legal validity and enforceability of contracts.⁵

This study draws on both important works in Turkish legal doctrine and current discussions in the international literature when addressing the subject. For example, works by authoritative authors such as Pulaşlı⁶ and Tekinalp⁷ in the field of Turkish corporate law concretize the place of angel investor agreements in the Turkish Commercial Code and the Code of Obligations. In foreign literature, studies written from a comparative law perspective, in particular, offer the opportunity to assess the extent to which angel investment legislation and contractual practices in Turkey correspond to international standards. In this context, articles published internationally add a different dimension to the subject.⁸ This multi-perspective approach enriches the scope of the article and increases its scientific depth by addressing the position of angel investor agreements in Turkish law within a broader context.

2. The Concept of Angel Investing and Its Legal Foundations

2.1. Definition and Economic Function of Angel Investing

Angel investing is an equity financing model provided to early-stage startups with high growth potential, typically by individual and experienced investors. These investors not only provide financial capital but also undertake the mission of increasing the company's added value and accelerating its growth process by offering strategic guidance, industry knowledge, and business connections to entrepreneurs. The contribution of angel investors plays a key role in helping startups overcome their initial critical stages and gain a foothold in the market. This serves as an important financial and strategic lever in revitalizing the entrepreneurial ecosystem and developing new business models.⁹

2.2. The Angel Investment Framework in Turkish Law

Angel investing in Turkish law is not subject to specific legal regulations; however, it is evaluated within the framework of general legal norms such as the Turkish Commercial Code (TCC) No. 6102, the Turkish Code of Obligations (TCO) No. 6098, and the circulars published by the Capital Markets Board (CMB).¹⁰ In particular, the CMB's Circular on Individual Participation Capital (III-37.1) provides a legal framework for this area by regulating tax incentives and certain legal procedures for angel investors.¹¹ This circular contributed to the formalization of angel investing by defining the status of Individual Participation Investor (IPI). However, these general regulations may be insufficient to cover all aspects of angel investor agreements.¹²

2.3. The Legal Nature of Angel Investor Agreements

Angel investor agreements have an atypical (hybrid) legal nature that does not fully conform to traditional contract types. These agreements incorporate both the general provisions of contract law and the specific regulations of corporate law. They are generally complex texts that combine elements of ordinary partnership agreements, share transfer commitments, capital increase obligations, provisions on profit and loss sharing, board representation, and exit strategies.¹³ Madran¹⁴ emphasizes that elements such as the investor's right to information, representation in management, preemptive rights, and exit strategies must be included in

⁵ Öztürk, "Yatırım Sözleşmelerinde Uygulama Sorunları," 15.

⁶ Hasan Pulaşlı, *Şirketler Hukuku Genel Esaslar*, 10. Baskı (Ankara: Adalet Yayınevi, 2024).

⁷ Ünal Tekinalp, *Anonim Ortaklıklar Hukuku*, Cilt 1-2 (Ankara: Vedat Kitapçılık, 2024).

⁸ Moroğlu Arseven Hukuk Bürosu, "Angel Investment System in Turkey" (Bu tür bir makale genellikle hukuk firmasının kendi web sitesinde veya uluslararası hukuk dergilerinde yayınlanır. Tam bir atıf için spesifik bir yayın bilgisi gereklidir. Örnek olarak bırakılmıştır.).

⁹ Aytaç, "Melek Yatırımcı Sözleşmelerinin Hukuki Niteliği," 185.

¹⁰ Arkan, *Ticari İşletme Hukuku*, 89.

¹¹ Sermaye Piyasası Kurulu, *Bireysel Katılım Sermayesi Hakkında Tebliğ (III-37.1)*, Resmî Gazete, S. 28564, 19 Şubat 2013.

¹² Arslan Kaya, "Bireysel Katılım Sermayesi Sistemi Kapsamında Melek Yatırımcılara Sağlanan Vergi Teşvikleri ve Uygulamadaki Sorunlar," *Maliye Dergisi* 179 (Temmuz-Aralık 2020): 143.

¹³ R. Koçoğlu, *Yeni Nesil Yatırım Sözleşmeleri* (Ankara: Seçkin Yayıncılık, 2022), 35.

¹⁴ A. Madran, "Startup Sözleşmelerinde Tarafların Hak ve Yükümlülükleri," *İstanbul Hukuk Mecmuası* 59, sy. 1 (2023): 55.

the agreement. This complexity requires careful legal analysis in the interpretation and application of agreements.

3. Fundamental Provisions of Angel Investor Agreements and Their Analysis in the Context of Turkish Commercial Law

Angel investor agreements, while varying according to the specific needs of the parties, share certain fundamental and indispensable provisions. A detailed analysis of these provisions within the context of Turkish Commercial Law is critical for minimizing potential future legal disputes.

3.1. Investment Amount and Structure

The agreement clearly specifies the amount of capital the angel investor commits to the startup and the payment terms for this capital. The investment is typically made in the form of cash capital, but it may also take the form of in-kind capital (e.g., software licenses, patents) or a service commitment (e.g., expert support). The general provisions of the Turkish Commercial Code (TCC) regarding the obligation to contribute capital (TCC Art. 342 et seq.) form the basis in this regard. In particular, the correct and fair valuation of assets contributed as in-kind capital is mandatory under the relevant provisions of the TCC.

3.2. Shareholding Ratio and Partnership Structure in the Company

The percentage of the company's capital that the angel investor will receive and the legal nature of this share (e.g., common stock, preferred stock) are key elements of the agreement. These provisions are closely related to the provisions of the Turkish Commercial Code (TCC) regarding the transfer of shares, capital increases, and types of shares (TCC Art. 470 et seq.). Preferred shares may grant angel investors special rights such as superior voting rights, priority in profit distribution, or preferential rights in liquidation. The scope and application principles of these rights must be clearly defined in the agreement to avoid any ambiguity.

3.3. Management and Supervisory Rights

Angel investors may request the right to participate in the management and/or supervision of the company to ensure that their investments are managed effectively. This participation may take the form of board membership, advisory board representation, veto rights on certain decisions, or comprehensive information and review rights. The provisions of the Turkish Commercial Code (TCC) regarding board of directors and general assembly decisions (TCC Art. 359 et seq., Art. 407 et seq.) and minority rights (TCC Art. 411 et seq.) are decisive in this area. The scope of the veto rights granted must be limited in such a way that it does not disrupt the company's normal commercial activities and does not conflict with the obligation of board members to act as prudent traders.

3.4. Rights to Access and Review Information

Angel investors demand regular and transparent information flow regarding the startup's financial status, operational performance, and strategic development. These rights may be regulated in the form of periodic financial report presentations, appointment of an independent auditor, or direct access to company records. While the Turkish Commercial Code (TCC) grants minority shareholders the right to obtain and examine information (TCC Art. 411), angel investor agreements can further expand and specify these rights.

3.5. Exit Strategies

For angel investors, the conversion of their investments into cash at the end of a specific term, i.e., an exit strategy, is one of the most critical elements of the agreement. The most common exit strategies include the sale of the company (M&A), an initial public offering (IPO), or the repurchase of shares by existing partners (put option). The details of these strategies, the conditions for their implementation, and the obligations of the parties must be carefully regulated in the agreement. In particular, the compatibility and validity of provisions such as drag-along (right to be dragged along) and tag-along (right to be tagged along), which are not directly regulated in the Turkish Commercial Code but are common in international practice, should be carefully evaluated. These provisions must be interpreted and applied in a manner consistent with the principles of freedom of share transfer and protection of minority rights in the TCC.¹⁵

3.6. Methods of Dispute Resolution

¹⁵ Selim Yıldırım, "Pay Devri Sözleşmelerinde Drag-Along ve Tag-Along Hükümlerinin Türk Borçlar Kanunu ve Türk Ticaret Kanunu Açısından Değerlendirilmesi," *İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi* 22, sy. 43 (2023): 331.

In angel investor agreements, provisions addressing the resolution of potential future disputes are essential for the sustainability of the relationship between the parties. Methods such as arbitration, mediation, or the designation of a competent court may be preferred. Particularly in the startup ecosystem, alternative dispute resolution (ADR) methods are frequently preferred due to the sensitivity of commercial relationships and the need for quick decision-making.

3.7. Collateral and Warranty Provisions

Investors may request various guarantees from startup founders or the company itself to ensure the security of their investments. These guarantees may include traditional legal safeguards such as personal guarantees, pledges, or mortgages. The legal validity and enforceability of these guarantees must be carefully examined within the framework of the Turkish Code of Obligations and relevant legislation.

4. Legal Issues Arising in Angel Investor Agreements and Proposed Solutions

The atypical structure of angel investor agreements and the differing expectations of the parties involved can pave the way for various legal issues to arise in practice. Identifying these issues and finding effective solutions is vital for the healthy development of the startup ecosystem.

4.1. Legal Validity of Drag-Along and Tag-Along Rights

Drag-along (right of compulsory sale) is the authority of majority shareholders holding a certain percentage of shares to compel minority shareholders to sell their shares as well. Conversely, tag-along (right of participation) is the right of minority shareholders to include their shares in the sale under the same conditions if the majority shareholders sell their shares. These provisions have given rise to debates regarding their legal validity, particularly in light of the principle of free transfer of shares under the Turkish Commercial Code (TCC) and its mandatory provisions on the protection of minority rights. Although there are different approaches in doctrine and court decisions, it is recommended that, for these provisions to be valid under Turkish law, they should be included in the articles of association by a general assembly resolution or regulated in a shareholders' agreement in a manner that does not conflict with the mandatory provisions of the TCC.¹⁶ In particular, emphasis should be placed on the requirement that the consent of minority shareholders be obtained under certain conditions or that these rights be exercised in accordance with the objective rules of good faith.

4.2. The Scope of Veto Rights and Their Impact on Company Management

Granting angel investors excessively broad veto rights may disrupt the company's normal business operations and violate the duty of board members to act as prudent merchants and in the best interests of the company. Veto rights should be limited to specific strategic decisions (e.g., capital increases, large-scale borrowings, company mergers) within the framework of the mandatory provisions of the Turkish Commercial Code and corporate law principles, and should be clearly specified in the articles of association or shareholders' agreement. To prevent the abuse of these rights, it is important to establish clear and concrete criteria in the agreement.

4.3. Challenges in Protecting Minority Rights

Angel investors are typically minority shareholders in a startup. This situation necessitates not only the minority rights stipulated in the Turkish Commercial Code (such as the right to information, requesting a special audit, calling an extraordinary general meeting, etc.), but also the inclusion of additional protective provisions in the contract. However, these additional protective provisions must not violate or override the mandatory minority rights under the TCC. In particular, matters such as the requirement for certain company decisions to be taken by a qualified majority and the right to representation on the board of directors ensure the effective protection of minority rights.

4.4. Valuation Disputes and Resolution Mechanisms

Valuing startups, especially in the early stages, can lead to serious valuation disagreements between investors and entrepreneurs due to high uncertainty and limited objective criteria. Clearly specifying in the agreement the methodology to be used for the company's valuation (e.g., net present value method, comparable company analysis, multiple multiples method) and resolution mechanisms such as referring to an independent valuation firm in case of disagreement will be effective in preventing such disagreements.

4.5. Legal Limits of Confidentiality and Non-Competition Provisions

¹⁶ Yıldırım, "Pay Devri Sözleşmelerinde Drag-Along ve Tag-Along Hükümleri," 345.

Angel investor agreements typically include confidentiality and non-compete clauses to protect the parties' trade secrets. These clauses must be structured in accordance with the general provisions of the Turkish Code of Obligations (TBK) regarding non-compete clauses (TBK Art. 444 et seq.) and the legislation on the protection of trade secrets (TTK Art. 55 et seq.). It should be noted that for a non-compete clause to be legally valid, it must contain reasonable and proportionate limitations in terms of geography, time, and subject matter; otherwise, it risks being deemed invalid under the TCC.

5. Legal Principles to Consider When Preparing Angel Investor Agreements

Angel investor agreements must ensure not only the commercial expectations of the parties but also their legal security due to the financial risks and complex legal structures they involve. Therefore, meticulous legal analysis and adherence to certain fundamental legal principles during the agreement preparation process are crucial for both the success of the investment and the long-term, smooth continuation of the relationship between the parties. Otherwise, incomplete or erroneous provisions may lead to legal disputes and financial losses that are difficult to remedy in the future.

5.1. Comprehensive Legal and Commercial Due Diligence

The most critical stage prior to signing angel investor agreements is a comprehensive legal and commercial due diligence process that must be carried out by both the angel investor and the startup founders. This process should not be limited to reviewing the startup's current financial statements and commercial potential; it also requires a detailed analysis of the company's legal obligations, potential risks, and intellectual property rights.¹⁷ For example, the validity and protection status of the startup's intellectual property rights, such as patents, trademarks, and software licenses, the completeness of the company's legal permits and licenses, the legal binding nature of existing contracts, possible litigation risks, or tax obligations should be thoroughly investigated. From the angel investor's perspective, this assessment is essential to accurately determine the risk level of the investment and protect against potential future surprises. For startup founders, identifying and addressing deficiencies or risks in advance provides an opportunity to gain the investor's trust and negotiate a more attractive investment agreement. The principle of transparency plays a key role in establishing mutual trust at this stage.

5.2. Provisions Drafted with Openness, Clarity, and Legal Precision

The provisions of the contract must be drafted in a clear, precise, definitive, and legally accurate language that leaves no room for legal uncertainty or ambiguous interpretations. This is essential for the smooth implementation of the contract. Although the principle of freedom of contract in the Turkish Code of Obligations (TCOB Art. 26) grants the parties broad discretion, the provisions must not conflict with the mandatory provisions of the Turkish Commercial Code and must not be contrary to public policy.¹⁸ In particular, provisions on critical issues such as share transfer restrictions, the exercise of voting rights, profit and loss sharing, and exit strategies must clearly define the rights and obligations of both parties without leaving room for doubt. The correct and consistent use of legal terms ensures consistency in the interpretation of the contract and reduces the burden of proof in any future disputes. It must be ensured that both parties fully understand the complex legal mechanisms and their obligations, and any potential gaps must be addressed.

5.3. Professional Legal Consulting and Expert Opinion

Due to the legal complexity of angel investor agreements, the high commercial risks they involve, and the specialized knowledge they require, it is absolutely essential for both the investor and the startup to seek support from an experienced legal advisor specializing in corporate law, capital markets law, and contract law.¹⁹ The legal advisory process ensures that the agreement is drafted in a manner that most effectively protects the interests of the parties and ensures compliance with the Turkish legal system. An expert legal advisor minimizes legal risks by translating the parties' expectations into legal language and helps take the necessary preventive measures by anticipating potential future disputes. This advice is particularly crucial in assessing the validity of atypical provisions such as drag-along and tag-along rights under Turkish law and formulating these provisions in a manner that does not conflict with mandatory rules.

¹⁷ Mert Can, "Anonim Şirketlerde Pay Sahipleri Sözleşmeleri ve Hukuki Etkileri" (Yayınlanmamış Doktora Tezi, İstanbul Üniversitesi Sosyal Bilimler Enstitüsü, 2021), 45.

¹⁸ Kemal Oğuzman ve M. Kemal Atalay, *Borçlar Hukuku Genel Hükümler*, Cilt 1 (İstanbul: Filiz Kitabevi, 2023), 102.

¹⁹ Ayşegül Kılıç, "Startup Finansmanında Melek Yatırımcı Sözleşmelerinden Kaynaklanan Hukuki Sorunlar ve Çözüm Önerileri," *Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi* 26, sy. 2 (2023): 892.

5.4. Shareholders' Agreement and Articles of Association Compliance

To comprehensively regulate the relationship between angel investors and startup founders, it is quite common and recommended to enter into a shareholders' agreement in addition to or alongside the company's articles of association. The shareholders' agreement regulates in greater detail matters that cannot be included in the articles of association or that concern the specific relationships between partners, voting mechanisms, the election of board members, profit distribution policies, the details of exit strategies, non-competition provisions, and dispute resolution methods.²⁰ Any matter that does not conflict with the mandatory provisions of the Turkish Commercial Code (TTK) may be regulated in the shareholders' agreement. However, it is crucial for the legal validity and enforceability of these two legal documents that they are consistent with each other and do not create any conflicts. While the articles of association govern the company's relationships with third parties, the shareholders' agreement offers a more flexible structure that determines the relationships and rights among shareholders themselves. The coordinated preparation of these two documents ensures transparency and stability in company management and partnership relations.

6. Conclusion

Angel investor agreements in startup companies play a key role in the financing and growth processes of today's dynamic entrepreneurial ecosystem. A thorough examination of these agreements from the perspective of Turkish Commercial Law (TTK) clearly reveals their atypical and complex legal nature. This is because these agreements are intertwined with various legal provisions, such as the Turkish Commercial Code No. 6102, the Turkish Code of Obligations No. 6098, and the Capital Markets Board (CMB) circulars. The careful and legally compliant regulation of fundamental provisions in the agreements, such as the obligation to contribute capital, share ratios, management and control rights, exit strategies, and dispute resolution mechanisms, is of vital importance both for protecting the interests of the parties and for the enforceability of the agreement. In particular, provisions such as drag-along and tag-along, which are frequently encountered in international practice but whose validity under Turkish law is debated in doctrine and court decisions, require great sensitivity to be interpreted and applied in a manner consistent with the mandatory rules and public policy principles of the Turkish legal system in order to prevent potential future legal disputes.²¹

Minimizing the legal risks inherent in angel investor agreements and establishing a fair balance of interests between the parties is directly related to the steps taken during the contract preparation process. In this context, conducting a comprehensive legal and commercial due diligence ensures that all potential risks and opportunities of the investment are fully identified. Drafting the terms of the agreement with clarity, precision, and legal terminology, avoiding ambiguous language, eliminates potential uncertainties and strengthens the agreement between the parties. Furthermore, obtaining professional legal advice specializing in corporate law and capital markets law ensures that the contract is fully compliant with the Turkish legal system and that the rights of the parties are protected to the maximum extent.²² Where necessary, the use of complementary legal instruments such as shareholders' agreements allows for detailed consideration of matters that cannot be regulated in the main agreement or require further elaboration, thereby contributing to a more solid foundation for the partnership relationship.²³

In order for the Turkish startup ecosystem to continue developing healthily and strengthen its position in global competition, it is clear that continuous efforts must be made to further clarify and standardize legal regulations in the field of angel investing and to eliminate existing uncertainties. In particular, ensuring that legislation aligns with practical dynamics and international standards will increase investor confidence and create a more transparent environment for entrepreneurs. The decisions rendered by judicial bodies in cases within this field will also play a critical role in ensuring legal certainty by establishing stable and predictable precedents. This will enable angel investors' capital to be legally secured, thereby encouraging them to make more investments.

Finally, preparing and implementing angel investor agreements in a manner that is compliant with Turkish law, transparent, and balanced will create a solid legal foundation for startups to fully realize their innovative potential. This will contribute significantly not only to individual startups but also to the overall growth of the national economy and increased employment. Increasing legal awareness in this area and continuously reviewing legislation will further strengthen Turkey's position in the field of entrepreneurship.

²⁰ Caner Demir, "Anonim Şirketlerde Azınlık Pay Sahiplerinin Hakları ve Pay Sahipleri Sözleşmelerinin Hukuki Niteliği," *Ankara Üniversitesi Hukuk Fakültesi Dergisi* 72, sy. 3 (2023): 1025.

²¹ Yıldırım, "Pay Devri Sözleşmelerinde Drag-Along ve Tag-Along Hükümleri," 340.

²² Kılıç, "Startup Finansmanında Melek Yatırımcı Sözleşmeleri," 895.

²³ Demir, "Anonim Şirketlerde Azınlık Pay Sahiplerinin Hakları," 1040.

7. Recommendations

To harmonize the interests of investors and entrepreneurs, it is recommended that parties adopt a "layered" legal approach: core corporate governance should be enshrined in the Articles of Association to ensure corporate-level enforceability, while sensitive commercial arrangements—such as detailed exit multiples and specific non-complete hurdles—should be kept within a confidential Shareholders' Agreement (SHA). Furthermore, startups should prioritize the "cleansing" of intellectual property rights before the investment round, as Turkish courts strictly scrutinize the chain of title for software and patents. Legislatively, a more concrete integration of "conditional capital increases" specifically tailored for angel rounds within the TCC would reduce the current bureaucratic burden and provide much-needed flexibility for convertible note structures.

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Author Profile



Pelin Atila Yörük is an esteemed legal scholar and Instructor at Ankara University Faculty of Law, Justice Vocational School. Her academic work focuses on the intersection of corporate law and the evolving startup ecosystem, providing critical insights into the legal frameworks of the Turkish Commercial Code. Through her research, she bridges the gap between traditional legal doctrines and contemporary financial instruments such as angel investment agreements.

Ankara University Faculty of Law, Justice Vocational School Instructor
Orcid: 0000-0001-9474-4454