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Azerbaijan merger control

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A conversation with Ummi Jalilova, executive director of the Azerbaijan practice of regional law firm GRATA Law Firm, on key issues on merger control in Azerbaijan. NOTE—to see whether notification thresholds in Azerbaijan and throughout the world are met, see Where to Notify.

1) Have there been any recent developments regarding the merger control regime in Azerbaijan and are any updates or developments expected in the coming year? Are there any other 'hot' merger control issues in Azerbaijan?

The existing Law on Antimonopoly Activity (the Law) was adopted in Azerbaijan in 1993 and has undergone four packages of amendments since then (in 1997, 2002, 2015, 2016 and 2018 accordingly). This Law, although being updated regularly has various gaps in practical areas. The Law sets out the requirements for and procedure for merger control in the Republic of Azerbaijan. Currently, the State Service for Antimonopoly Policy and Protection of Consumers of The Ministry of Economy of the Republic of Azerbaijan (the Antimonopoly Agency) is the merger control authority in the Republic of Azerbaijan. The Antimonopoly Agency has an exclusive right to implement the State control on prevention of market players on their key positions or actions and restricting competence on the market in the purposes of restricting the monopoly. In terms of 'hot' issues, the Law on Antimonopoly Activity in Azerbaijan has a lack of instructions in the field of mergers and, therefore, it is hard to expect a well-established practice on merger control issues. The Law sets out a period of 15 days to consider an application, but in practice it may take more time to obtain the prior written consent of the Antimonopoly Agency compared to other countries.

2. Under the Azerbaijan merger control law, is the control test the same as the EU concept of 'decisive influence'? If not, how does it differ and what is the position in relation to 'minority shareholdings'?

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