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The legal framework for combating monopolies and unfair competition in the context of national economic security

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■ **Abstract.** The aim of the present article was to define structural and functional purpose with regard to the legal mechanism for countering monopoly and non-profit competition in the Republic of Azerbaijan in the context of the economic security of the state. The study was based on the analysis of the Constitution of the Republic of Azerbaijan, the Code on Competition, and related acts with reference to the implementation, materials of competition authorities, judicial practice, programme and strategic documents and international approaches. Constitutional-legal, formal-legal, systemic, institutional-legal, comparative-legal methods and the method of legal modelling were implemented. The analysis showed that the constitutional basis for competition protection rests on several interrelated principles. These principles encompass the state's duty to prevent monopolism and unfair competition, the guarantee of freedom of enterprise, and the right to administrative and judicial protection. The Code on Competition of the Republic of Azerbaijan establishes a codified model of competition regulation. It covers the control of anti-competitive agreements, dominant positions, significant market power, unfair competition and economic concentrations. These substantive rules are combined with procedures for investigation, evidence assessment, the imposition of sanctions and the appeal of decisions. The preventive, monitoring, sanctioning and remedial functions of this mechanism have been determined. It has been argued that anti-competitive agreements are characterised by the coordination of market participants' behaviour, whilst unfair competition consists of the unilateral acquisition of an unlawful advantage through deception, discrediting, imitation, the unlawful use of trade secrets or unfair advertising. An analysis of the competition authority's records for 2023-2024, the case concerning "Azərbaycan Dəmir Yolları" QSC and the decisions of the Constitutional Court confirmed the application of certain procedures, sanctions, injunctions and judicial review, but did not provide grounds for concluding that the new Code is generally effective. Four areas for improvement were identified: increasing the transparency of the competition authority's decisions; clarifying the criteria for significant market power and economic dependence; detailing the control of economic concentrations; and ensuring the competitive neutrality of the public sector. The findings may be utilised in regulatory, law enforcement and judicial activities, as well as in the development of competition compliance programmes

■ **Keywords:** institutional implementation; market openness; concentration control; unfair competition; economic security

■ Introduction

The right to prevent monopoly and unfair competition is relevant for states that lack internal stability. The market is more stable due to the pace of economic development, but it is also able to limit excessive

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economic concentration. Governments, ensure equal access to resources and promote a competitive environment. For the Republic of Azerbaijan, the relevance of this issue stems from the adoption of the Competition Code of the Republic of Azerbaijan[1], which sets out the legal framework for the control of anti-competitive agreements, abuse of a dominant position, significant market power, economic concentration and unfair competition. Azerbaijan's economy in the context of regional geopolitical challenges was examined by K. Ismayilov (2026). The study shows that the country's macroeconomic stability depends on the ability of legal and institutional mechanisms to support the development of the non-resource sector, reduce structural risks and maintain the manageability of economic processes. R. Aghayev (2023) analysed the feasibility of applying Azerbaijan's new Competition Code in a highly monopolised economy. The author concluded that the mere adoption of a codified act does not eliminate the problem of market concentration, as the effectiveness of competition regulation depends on the genuine independence of law enforcement, the transparency of oversight and the state's ability to limit the advantages enjoyed by economically powerful entities. V.M. Reverdin (2021) examined the abuse of a dominant position in digital markets. The publication argues that a digital platform's use of third-party data may strengthen the market power of a dominant entity and create conditions for the unfair exclusion of competitors.

The draft Digital Markets Act[2] was analysed by P. Ibáñez Colomo (2021). The researcher demonstrated that traditional competition law instruments require institutional supplementation in areas where dominance arises through control of infrastructure, network effects and access to data. M.C. Buiten (2021) examined exploitative abuses in digital markets. The study found that the intersection of competition law and data protection reinforces the importance of legal criteria such as fairness, transparency, and the prevention of the use of market power against dependent market participants. The issue of controlling economic concentrations was further developed in a study by J. Mulder & W. Sauter (2023), which focused on the new regime for assessing transactions below thresholds under European Union law. The authors concluded that formal financial thresholds do not always make it possible to identify concentrations capable of altering the market structure; therefore, competition law requires more flexible tools for assessing potential harm to competition. The objectives of European Union competition law were empirically examined by K. Stylianou & M. Iacovides (2022). The analysis demonstrated that modern competition law is not limited to the protection of price competition, as its purpose is realised through the maintenance of an open market structure, consumer protection, freedom of economic activity and the prevention of the abuse of market power. The innovative component of European competition law was systematised by T. Schrepel (2024). The author demonstrated that the legal assessment of competition is increasingly linked to dynamic market parameters, including innovation pressure, technological development and the ability of legal regulation not to hinder the bona fide development of business. A complex approach to antitrust regulation was outlined by N. Petit & T. Schrepel (2023). The study demonstrates that competition law must take into account not only individual infringements but also complex market interrelationships, in which the behaviour of a dominant entity may influence market entry, the allocation of resources, the sustainability of small players and the quality of the institutional environment. S. Mariotti (2023) examined the link between competition policy and the preservation of a favourable institutional environment for investment. The author concluded that, in the context of new protectionism, competition policy remains important for safeguarding market openness, regulatory predictability and investor confidence in legal institutions.

Taken together, the studies presented show that combating monopolies and unfair competition is increasingly viewed not as a narrow sphere of antitrust regulation, but as an element of the legal protection of market order, entrepreneurial freedom and the state's economic security. The available works analyse, in turn, the monopolisation of Azerbaijan's economy, the objectives of competition law, the abuse of a dominant position, digital markets, merger control, the institutional role of competition policy and its link to the investment environment. However, the question of how the constitutional and legal foundations of regulation, the provisions of the Competition Code of the Republic of Azerbaijan, the prohibition of anti-competitive agreements, the control of dominant positions, the countering of unfair competition, the assessment of economic concentration and the powers of the competition authority form a single legal mechanism for safeguarding the state's economic security. The assessment of this mechanism's effectiveness also remains underdeveloped in terms of its ability not only to identify

[1] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[2] Digital Markets Act. (2020, December). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A842%3AFIN.

infringements but also to prevent the emergence of entrenched monopolistic advantages, administrative barriers, discriminatory conditions for market access and unfair forms of competition.

The aim of the study was to conduct a theoretical and legal assessment of the mechanism for countering monopolies and unfair competition in the context of the state's economic security. The objectives of the study included determining the legal nature of measures to counter monopolisation as an element of ensuring the state's economic security; analysing the constitutional, legal, and legislative mechanisms for protecting competition in the Republic of Azerbaijan, in particular the legal prohibitions on anti-competitive agreements, abuse of a dominant position, unfair competition and economic concentration; to assess the effectiveness of the competition authority's powers and to propose ways of improving the legal framework for combating unfair and monopolistic practices.

Materials and Methods

The study was of a qualitative, theoretical, legal and doctrinal nature. The following methods were applied: constitutional-legal, formal-legal, systemic, institutional-legal, comparative-legal, comparative-institutional, statistical-analytical and financial-legal methods, as well as content analysis and legal modelling. The main period covered the years 2022-2025: the lower limit was defined as the start of the implementation of the Strategy for the Socio-Economic Development of the Republic of Azerbaijan for 2022-2026, and the upper limit as the first completed stage of the application of the new competition legislation.

The constitutional and formal legal analysis covered the Constitution of the Republic of Azerbaijan[1], the Competition Code of the Republic of Azerbaijan[2], Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code"[3] and Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters"[4]. On this basis, the constitutional foundations of the market economy and freedom of enterprise have been established, along with the procedure for implementing the Code, its conceptual framework, and the rules governing anti-competitive agreements, dominance, significant market power, concentrations, unfair competition, liability, and the allocation of powers. The 2022-2026 Social and Economic Development Strategy of the Republic of Azerbaijan (2022) was used as a policy framework to examine the relationship between competition law and diversification, the private sector and economic security. The criteria for a substantial restriction of competition, the distinction between horizontal and vertical agreements, and the consequences of breaching the legislation were examined.

The institutional-legal approach was applied to analyse the status, powers, and procedures of the competition authority. The Regulation of the State Agency for Antimonopoly and Consumer Market Control under the President of the Republic of Azerbaijan[5]enabled an assessment of its powers regarding market research and monitoring, inspections, requests for information, the review of concentrations, the adoption of decisions and orders, the imposition of sanctions, bringing cases before the courts, and the handling of complaints. The practical exercise of these powers was examined on the basis of the 2023 report (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024a), the announcement of 27 November 2024 (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024b), the case file concerning "Azərbaycan Dəmir Yolları" QSC (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024c) and the Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan"[6].

Systemic, statistical-analytical and financial-legal approaches were used to assess the competitive mechanism within Azerbaijan's economic environment.

[1] Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from https://president.az/en/pages/view/azerbaijan/constitution.
[2] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[3] Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code". (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[4] Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters". (2024, January). Retrieved from https://president.az/az/articles/view/63275.
[5] Regulation of the State Agency for Antimonopoly and Consumer Market Control under the President of the Republic of Azerbaijan. (2025, February). Retrieved from https://president.az/az/articles/view/68138.
[6] Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan". (2014, July). Retrieved from https://www.constcourt.gov.az/az/decision/853.

The Statistical Yearbook of Azerbaijan 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024a) and Azerbaijan in Figures 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024b) characterised the sectoral structure, entrepreneurial activity and macroeconomic background. Materials from the International Monetary Fund (2025), the World Bank (2022; 2024a) and the European Bank for Reconstruction and Development (2024) were used to analyse financial stability, systemic risks, diversification, private sector development, market reforms and the institutional environment. The impact of state-owned enterprises and corporate governance was assessed using the Organisation for Economic Co-operation and Development (2024a) Review of the Corporate Governance of Azerbaijan Investment Holding and Its State-Owned Enterprises.

The comparative legal analysis drew on the Organisation for Economic Co-operation and Development's (2024b; 2025) Competition Trends 2024-2025, materials from United Nations Conference on Trade and Development (2024) and the Report on Competition Policy 2024 (European Commission, 2025). Documents from the European Commission were used to specify the criteria for market definition and the assessment of concentrations. Section 20 of the Competition Act of Germany[1] (2023) was applied as a model for assessing relative market power and economic dependence, whilst materials from the Productivity Commission (2024) were used to analyse the competitive neutrality of state-owned enterprises and to examine complaints regarding unjustified advantages. The situation of small and medium-sized enterprises was examined using the Small and Medium-sized Enterprises Policy Index: Eastern Partner Countries 2024 (Organisation for Economic Co-operation and Development, 2024c).

The legal modelling method was applied to identify areas for improving legislation, case-handling procedures, the system of sanctions, and guarantees for appeals and the protection of market participants. The proposed solutions were assessed against the criteria of legal certainty, proportionality, institutional feasibility and alignment with economic security objectives.

Results

The legal framework for the protection of competition as an element of a state's economic security

The analysis carried out has shown that the link between the legal protection of competition and the economic security of the Republic of Azerbaijan is realised through a set of legal mechanisms provided for in the Code. The prohibition of horizontal and vertical anti-competitive agreements restricts concerted behaviour by economic operators aimed at market sharing, price fixing or creating barriers for other market participants. The control of dominant positions and significant market power makes it possible to put an end to discriminatory terms, unjustified denial of access to resources or infrastructure, and other forms of the abuse of market power. The control of economic concentrations is aimed at preventing structural changes that could result in a significant restriction of competition or a strengthening of a monopoly position. The prevention of unfair competition ensures that market participants are protected against the misuse of business reputation, the misleading of consumers and other unfair practices. The application of mandatory injunctions and financial sanctions ensures the compulsory cessation of infringements, whilst administrative and judicial appeals against the competition authority's decisions provide safeguards to ensure the legality and proportionality of its intervention. The combined effect of these instruments defines the legal framework for market access, the limitation of excessive economic power and the protection of fair business practices. This approach is consistent with the provisions of the 2022-2026 Social and Economic Development Strategy of the Republic of Azerbaijan (2022), in which private sector development, economic diversification and the strengthening of institutional resilience are identified as priority conditions for long-term economic development.

Economic security is the legal outcome of effective regulation of market behaviour, whereby the state ensures open market access, restricts monopolistic power, protects honest entrepreneurship and maintains the predictability of the competitive environment. The Statistical Yearbook of Azerbaijan 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024a) enables an assessment of the legal framework for the protection of competition, taking into account the actual structure of the economy, sectoral dynamics and entrepreneurial activity. Competition law is therefore significant for market stability, private sector development and the prevention of distortions in economic conditions. The financial and macroeconomic context allows competition protection to be viewed as one of the legal factors underpinning a state's economic security. A comprehensive analysis of international sources has shown that Azerbaijan's economic resilience depends not only on financial stability, but also on the ability of regulatory institutions to mitigate structural risks and maintain a level playing field. An

[1] Competition Act of Germany. (2023, October). Retrieved from https://www.gesetze-im-internet.de/englisch_gwb/.

assessment of the financial sector has highlighted the importance of regulatory capacity in preventing the build-up of systemic risks (International Monetary Fund, 2025). At the same time, the need for diversification, private sector development and increased productivity requires open access for enterprises to markets and resources (World Bank, 2022). Macroeconomic trends in 2024 point to the need to take account of sectoral imbalances and the dependence of economic development on the institutional quality of the market environment (World Bank, 2024a). Under such conditions, the regulation of anti-competitive agreements, abuses of dominance and economic concentrations serves a preventive function, as it limits the consolidation of market power that could hinder diversification and private actors' access to economic resources.

Market reforms and the institutional environment, as outlined in the Transition Report 2024-25: Azerbaijan (European Bank for Reconstruction and Development, 2024), further confirm the importance of legal institutions in maintaining market stability. In this context, the legal mechanism for combating monopolistic behaviour serves a dual function. On the one hand, it aims to put an end to specific infringements: monopolistic behaviour, discriminatory access to resources, unfair practices and distortions of competition. On the other hand, it serves a preventive purpose, as it creates the conditions under which economic operators can operate in a predictable, transparent and legally protected environment. The interrelationship between the legal protection of competition and the state's economic security is illustrated in Figure 1.

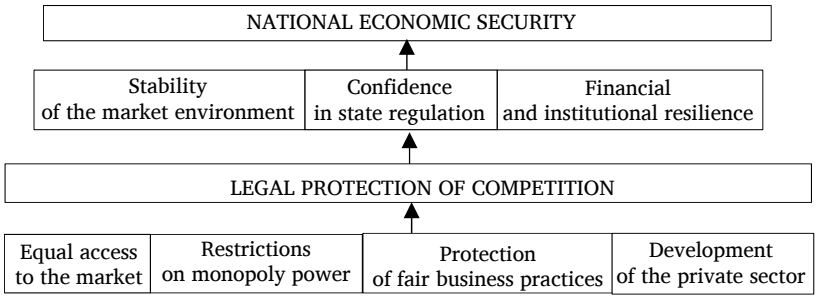


Figure 1. The relationship between legal protection of competition and the economic security of the state
Source: compiled by the author based on State Statistical Committee of the Republic of Azerbaijan (2024a), International Monetary Fund (2025), World Bank (2022; 2024a), European Bank for Reconstruction and Development (2024)

Equal access to the market, the restriction of monopoly power, the protection of fair business practices and the development of the private sector are defined in this model as the legal objectives of competition regulation. The prohibition of anti-competitive agreements, the control of abuses of a dominant position, the control of economic concentrations, the prevention of unfair competition and the imposition of sanctions form a system of legal instruments designed to achieve these objectives. The link to economic security lies in the regulatory purpose of these instruments: to limit excessive market power, ensure market access for economic operators, and establish predictable rules for state control. Meanwhile, the study did not include a statistical analysis of this link or a sufficient body of case law on the application of the Code; therefore, it does not provide grounds for asserting that market risks have actually been reduced or that economic stability has been enhanced. The finding is that the legal mechanism for the protection of competition has the normative capacity to perform a preventive function within the state's economic security system.

Constitutional principles and the regulatory framework for the protection of competition in the Republic of Azerbaijan

The constitutional basis for the protection of competition is established by the interplay of Articles 15, 59 and 60 of the Constitution of the Republic of Azerbaijan[1]. Part II of Article 15 imposes on the state the duty to create, on the basis of market relations, conditions for the development of a socially oriented economy, to guarantee freedom of enterprise, and to prevent monopolies and unfair competition. This provision is of a foundational nature, as it establishes the protection of competition as a constitutional duty of the state. Its implementation requires legislative prohibitions, a specialised competition authority, control of concentrations, the prevention of abuses of market power, and the application of liability measures. Article 59 guarantees everyone the right, either individually or jointly with others,

[1] Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from https://president.az/en/pages/view/azerbaijan/constitution.

to engage in entrepreneurial and other economic activities not prohibited by law, using the capabilities, skills, and property. In the field of competition, this guarantee encompasses the right to enter the market, to choose contracting parties and to determine one's own commercial conduct.

At the same time, freedom of enterprise does not extend to cartel agreements, abuse of a dominant position, unfair practices or other means of restricting the rights of market participants. Therefore, competition control serves as a legitimate means of reconciling freedom of enterprise with the public interest in maintaining an open market environment. Article 60 enshrines administrative and judicial protection of rights, the right to an impartial hearing within a reasonable time, the right to be heard, and the right to challenge the actions or inaction of state bodies and officials. In competition proceedings, these guarantees are given concrete form through the right of the party concerned to examine the case file, to submit evidence and objections, to receive decisions and to appeal against the acts of the competition authority. Thus, Article 15 establishes the State's public duty to protect competition, Article 59 provides a substantive guarantee of freedom of enterprise, and Article 60 sets out a procedural mechanism for protection against unjustified or disproportionate interference. The legislative introduction of the new model of competition regulation was formalised by Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code"[1]. Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters"[2] specified the division of powers regarding the implementation of the Code's provisions and its subordinate legislation. An analysis of the Competition Code of the Republic of Azerbaijan[3] has shown that the legal framework for the protection of competition comprises preventive, supervisory, sanctioning and remedial components. The preventive provisions set out the principles of competition policy, the limits of permissible market conduct, and prohibitions on anti-competitive agreements, the abuse of market power, unfair competition and concentrations capable of restricting competition. The supervisory component regulates the powers of the competition authority, market investigations, inspections, the taking of evidence and the adjudication of cases. Sanction and remedial provisions provide for financial liability, mandatory injunctions, the rectification of the consequences of infringements, appeals against decisions and compensation for damages. Thus, the Code combines substantive legal prohibitions with enforcement procedures and safeguards for the protection of market participants' rights.

The Competition Code of the Republic of Azerbaijan enshrines the general principles for ensuring, protecting and developing free and healthy competition; it defines the organisational and legal framework for state regulation of natural monopolies, the rights, and obligations of market participants, and liability for breaches of competition law. The regulatory structure of the Code is based on the interplay between general principles, rules defining its scope of application, and specific prohibitions. Article 3 of the Code enshrines the principles of conducting economic activity in conditions of free and healthy competition; the promotion, protection, and development of competition; the demonopolisation of the economy and the stimulation of competition; state regulation and control over agreements, conduct and inaction capable of restricting competition; the formation of prices based on supply and demand; taking account of consumers' interests and ensuring freedom of choice; reconciling the interests of consumers and natural monopoly operators; the inadmissibility of anti-competitive agreements, concentrations, and the abuse of a dominant or natural monopoly position; free access to the market, equal access to resources and a level playing field for all market participants.

The legal significance of these principles lies in establishing the criteria by which the behaviour of market participants, the decisions of the competition authority and the permissibility of state intervention are assessed. The principles of demonopolisation, free market entry and equal access to resources are aimed at removing barriers to new entrants. The prohibition of agreements, concentrations, and the abuse of market power creates a regulatory framework to prevent the strengthening of a monopoly position. The requirements for free pricing and the protection of consumer choice limit the possibility of artificial price-setting and the imposition of trading conditions. In accordance with Article 4.1, the Code applies to relations between economic operators, state bodies, local authorities, regulatory bodies,

[1] Law of the Republic of Azerbaijan No. 1051-VIQ "On the Approval, Entry into Force and Related Legal Regulation of the Competition Code". (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.
[2] Decree of the President of the Republic of Azerbaijan No. 2451 "On the Implementation of Law No. 1051-VIQ on the Approval, Entry into Force and Related Legal Regulation of the Competition Code of the Republic of Azerbaijan and the Regulation of Certain Related Matters". (2024, January). Retrieved from https://president.az/az/articles/view/63275.
[3] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.

other entities and consumers, where such relations affect competition. The extension of the Code to public authorities is important for countering administrative distortions of competition. Article 33 prohibits the granting of unjustified advantages to individual undertakings, the creation of barriers to market entry, restrictions on the movement of goods and capital, the selective granting of concessions, subsidies, and access to resources, interference in pricing, preferential treatment in public procurement and unequal access to information. Article 34 provides for the assessment of the impact of subsidies, state aid and regulatory measures on competition, whilst Article 35 establishes the obligation of public authorities to cooperate with the competition authority and to provide it with draft legislation and other information capable of affecting market conditions.

These provisions enable competition law to be applied to distortions caused by government decisions and ensure a level playing field for market access for both public and private entities. The Code elaborates on the constitutional foundations through the principles of free and fair competition, demonopolisation, free market access, a level playing field in regulation, and the protection of consumer choice. Its scope extends to economic operators and public authorities whose decisions may affect competition. Articles 33-35 prohibit the creation of unjustified advantages, barriers to entry, selective advantages and unequal access to resources, and provide for the assessment of the impact of state aid and regulatory decisions. This approach is consistent with United Nations Conference on Trade and Development (2024) principles on countering restrictive business practices and safeguarding fair competition.

Consequently, the legal framework for the protection of competition in the Republic of Azerbaijan has a multi-tiered regulatory structure. Constitutional provisions establish the state's duty to prevent monopolies and unfair competition, and guarantee freedom of enterprise and the right to administrative and judicial protection. The Code elaborates on these foundations through the principles of competition policy, the definition of its scope, the rights, and obligations of market participants, the competence of the competition authority, substantive legal prohibitions, control procedures, liability, and appeals. The preventive function is carried out through the principles of free market access, equal access to resources, the prohibition of anti-competitive agreements and the abuse of market power, as well as prior control of economic concentrations. The supervisory function is implemented through market research and monitoring, conducting inspections, requesting information, examining cases and issuing binding orders. The sanctioning function encompasses the imposition of financial sanctions and the recovery of unlawfully obtained income. The remedial and safeguard functions relate to the cessation of infringements, the rectification of the consequences, compensation for damage, the protection of confidential information, and the possibility of administrative and judicial appeals. The interaction of these components forms a sequence of legal responses: establishing regulatory boundaries for market conduct, detecting and investigating infringements, making decisions, applying legal consequences, and protecting the rights of parties to the proceedings. Consequently, the Code establishes a regulatory framework for combating anti-competitive agreements, the abuse of a dominant position and significant market power, unfair competition, and concentrations capable of restricting competition. At the same time, the structure outlined above characterises the legal capacity of the mechanism. Its actual effectiveness depends on the soundness of the competition authority's decisions, the consistent application of established criteria, the proportionality of sanctions, and the effectiveness of administrative and judicial review.

Legal measures to counter monopolies: dominant position, market power and concentration

The legal measures to counter monopolies set out in the Competition Code of the Republic of Azerbaijan are structured around three interrelated pillars: the definition of market power, the prohibition of its abuse, and ex ante control of economic concentration. The Competition Code of the Republic of Azerbaijan[1] combines quantitative and qualitative criteria for assessing market power. Under Article 15, an entity with a market share of 50% or more is deemed to hold a dominant position. For market shares of more than 35% but less than 50%, dominance is determined by taking into account the entity's financial capacity, the state of competition, barriers to entry, other participants' access to supply and sales markets, purchasing power and network effects. Joint dominance arises if each entity holds more than 10% of the market and the combined market share of two or three participants exceeds 50%, or that of four or five participants exceeds 70%. Article 18 allows for the determination of significant market power even where market shares are below 35%, provided the entity is capable of substantially restricting competition or influencing the market. Particular consideration is given to the dependence of small and medium-sized enterprises, which are forced to enter

[1] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.

into agreements on less favourable terms and lack sufficient alternative counterparties. Articles 26-28 classify mergers, acquisitions of shares, assets or decisive control, and the creation of joint ventures as economic concentrations. Prior approval from the competition authority is required, in particular, if one of the parties already holds a dominant position or if the turnover or market share thresholds set out in the Code for the relevant market have been reached. The assessment takes into account the transaction's projected impact over a three-year period on the market structure, the potential for the creation or strengthening of a dominant position, and the restriction of competition. A concentration may be authorised if its technological or other pro-competitive benefits outweigh the restrictive effects and do not harm consumers' interests.

Market power is determined not only by an entity's market share, but also by barriers to entry, financial capacity, the dependence of counterparties, access to infrastructure and network effects. The Code prohibits the abuse of a dominant position in the form of monopolistic pricing, discriminatory terms, the imposition of additional obligations, restrictions on production, and the unjustified refusal to grant access to a network or an essential resource. Organisation for Economic Co-operation and Development (2024b) Competition Trends 2024 and Organisation for Economic Co-operation and Development (2025) Competition Trends 2025 summarise data on investigations into abuses, merger control, sanctions, and the resources of competition authorities. The Report on Competition Policy 2024 outlines EU practice regarding the control of market power and mergers (European Commission, 2025). Consequently, the application of the provisions of the Azerbaijani Code requires a proper definition of the relevant market, proof of market power and an assessment of the effects of mergers.

The Competition Code of the Republic of Azerbaijan combines structural, behavioural, procedural, sanction-based and remedial instruments to counter monopolistic practices. The structural component covers the criteria for individual and collective dominance, significant market power and economic concentration. Its purpose is to identify entities and market changes capable of creating or reinforcing economic dependence. The behavioural section consists of prohibitions on the abuse of a dominant position, monopolistic pricing, discriminatory terms and conditions, and unjustified denial of access to goods, networks or essential resources. The procedural component covers prior authorisation of concentrations, market investigations, inspections, the taking of evidence and the assessment of potential restrictions on competition. Injunctions, financial penalties, appeals, and compensation for damages fulfil the punitive, remedial and safeguard functions of this mechanism.

The application of these instruments requires a combination of quantitative thresholds with a qualitative assessment of market conditions. The determination of dominance and significant market power involves taking into account barriers to entry, access to resources and distribution channels, the financial capacity of the undertaking, the purchasing power of counterparties, network effects and the availability of alternatives. When reviewing mergers, the structure of the relevant market, the potential for the creation or strengthening of dominance, the anticipated impact of the transaction on competition, and its possible pro-competitive effects are assessed. Therefore, the use of formal market share indicators alone does not ensure a comprehensive assessment of anti-competitive risk.

The competition authority's published case law confirms the actual use of certain tools provided for in the Code. In the proceedings concerning "Azərbaycan Dəmir Yolları" QSC (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024c), discriminatory conditions for access to infrastructure and the granting of preferential treatment to certain entities were analysed, resulting in the imposition of a financial penalty and the issuance of binding orders. The 2023 report and the official statement for January-October 2024 also attest to the exercise of powers to examine complaints, investigate potential infringements and implement remedial measures (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024a; 2024b). At the same time, these materials do not constitute a sufficient body of evidence to draw conclusions regarding the overall effectiveness of law enforcement, the consistency of assessments of all mergers, or the actual impact of sanctions on the state of competition. Consequently, the regulatory and enforcement capacity of the mechanism to curb abuses of market power, monitor structural changes in the market and protect vulnerable counterparties has been established. Its actual effectiveness requires further analysis of the competition authority's decisions, case law, research on specific markets and the consequences of implementing the orders issued. Areas for improvement should relate to the methodological refinement of criteria for market definition, dominance, significant market power, the assessment of concentrations and the demonstration of anti-competitive effects.

Legal remedies against unfair competition and anti-competitive agreements

The Competition Code of the Republic of Azerbaijan distinguishes between anti-competitive agreements

and unfair competition based on the composition of the parties involved, the manner in which the infringement is committed, and the nature of its consequences. An anti-competitive agreement involves a joint expression of intent or concerted behaviour by two or more market participants. It may be of a horizontal nature between competitors or of a vertical nature between entities at different levels of production or distribution. The criterion for determining its unlawfulness is the objective or likely result of restricting competition through the fixing of prices and other trading conditions, the allocation of markets and customers, the restriction of production, the control of trade, or the exclusion of other entities from the market. To classify such a breach, it is necessary to establish the existence of an agreement or concerted action, its anti-competitive subject or effect, and its link to the behaviour of participants in the relevant market. Exceptions and rules regarding de minimis agreements are set out in Articles 13-14 of the Code. Unfair competition does not require the establishment of an agreement or coordination between several participants. In accordance with Article 1.1.15, it consists of independent actions by a business entity aimed at gaining an advantage in the relevant market contrary to legislation, business practices and the requirements of fair conduct, where such actions cause or are likely to cause harm to a competitor or the business reputation. Articles 19-25 classify such actions as aggressive behaviour towards customers, discrediting a competitor, imitating a competitor's business activities, misleading customers, the unlawful acquisition, use, or disclosure of trade secrets, and other unfair practices. Anti-competitive agreements affect market structure by coordinating the behaviour of market participants. The most dangerous are cartel agreements concerning prices, the allocation of markets and customers, restrictions on production, tender outcomes or the entry of new participants. Other horizontal and vertical restrictions require an assessment of the actual or potential impact on competition. Unfair competition is of a different nature: it is not necessarily linked to market power, but it undermines the integrity of business conduct, distorts consumer choice and harms the position of bona fide competitors. Therefore, combating both types of infringements is aimed at protecting the market structure, the rights of market participants and confidence in the competitive environment. The importance of this area is heightened in circumstances where the quality of the business environment depends on regulatory certainty, market access and operational efficiency. "Business Ready 2024" (World Bank, 2024b) considers market competition to be one of the parameters for assessing the business environment, confirming the link between legal protection of competition and the conditions for conducting business. For small and medium-sized enterprises, this link is of particular importance, as such enterprises are more vulnerable to discriminatory access to resources, misleading advertising, product imitation, dependence on large counterparties and restrictive agreements. The Small and Medium-sized Enterprises Policy Index: Eastern Partner Countries 2024 (Organisation for Economic Co-operation and Development, 2024c) provides grounds for taking the role of small and medium-sized enterprises into account when assessing the business environment and institutional resilience. To distinguish between anti-competitive agreements and unfair competition, the results of the analysis are summarised in Table 1.

Table 1. Forms of anti-competitive behaviour and unfair competition

Group of infringements	Legal basis	Forms of infringement and classification criteria	Legal consequences
Horizontal cartel agreements	Competition Code: Articles 1.1.20, 11.1.1-11.1.5, 11.1.8-11.1.10	Agreements or concerted practices between competitors concerning prices and other trading conditions, production volumes, the allocation of markets, customers, territories, and sources of raw materials, participation in procurement and tenders, or the boycott or exclusion of competitors from the market. The key feature is the deliberate coordination of competitors' behaviour	The agreement is prohibited and is void from the moment of its conclusion; the competition authority may issue an order to cease the infringement and impose a financial penalty of up to 10% of total turnover
Other horizontal agreements and concerted practices	Competition Code: Article 11.1, 11.2-11.5, 13-14	Contractual or agreed restrictions between competitors, which are not always cartels but which result in or may result in a restriction of competition. The subject of the agreement, its duration, market shares, changes in turnover, the number of participants and other market effects are assessed	The legal consequences depend on proving the restrictive effect and the possibility of applying exemptions or the rules on de minimis agreements
Anti-competitive vertical agreements	Competition Code: Article 12-14	Agreements between entities at different levels of production or distribution concerning minimum resale prices, territories and customer groups, reciprocal supply, exclusive distribution and non-competition obligations. Account is taken of the exemptions provided for in the Code and the actual impact on access to distribution channels	Prohibited terms are void; a mandatory injunction and a financial penalty of up to 5% of total turnover may be imposed for an established infringement

Table 1. Continued

Group of infringements	Legal basis	Forms of infringement and classification criteria	Legal consequences
Aggressive behaviour towards customers	Competition Code: Article 19.1.1 and 20	The use of threats, coercion, or other unlawful means of influence that restrict a customer's freedom of choice and induce the customer to make a decision different from that which would be made under normal market conditions	Cessation of the unlawful conduct, rectification of its consequences and the imposition of a financial penalty
Discrediting a competitor	Competition Code: Article 19.1.2, 21	Dissemination of false or distorted information regarding a competitor's business reputation, financial position, production capacity, goods, raw materials, technology, quality or safety of a competitor's products, as well as unfounded calls for a boycott	Order to cease the dissemination of false information, a financial penalty and the possibility of judicial compensation for the damage caused
Imitation of a competitor's business activities	Competition Code: Article 19.1.3, 22	Copying the appearance of a product or its packaging, direct reproduction of products in breach of intellectual property rights, unlawful use of a company name, trademark, domain name, website design or geographical indication	Cease and desist order, rectification of the consequences and a financial penalty of up to 10% of total turnover
Misleading customers	Competition Code: Article 19.1.4, 23	Use of false or misleading information regarding the origin, method of production, quality, weight, price, standards and other characteristics of goods; unlawful advertising practices and misleading comparisons with a competitor's products	Cease and desist from the misleading practice, rectification of its consequences, a financial penalty and the possibility of compensation for damages
Unlawful use of trade secrets	Competition Code: Article 19.1.5, 24	Unlawful acquisition, use, or disclosure of a competitor's production, technological, managerial, financial or other confidential information, capable of causing harm to the competitor or impairing its competitive position	An order to cease the use or disclosure of information, a financial penalty and the possibility of compensation for damages
Other forms of unfair competition	Competition Code: Article 19.1.6 and 25	Unfair, misleading or deceptive advertising; restrictions on parallel imports; unlawful interference in a competitor's business relations; influencing a competitor's employees or business decisions by unlawful means; organising such actions to be carried out by other persons	Ceasing the infringement, remedying its consequences and a financial penalty of up to 5%, and for repeated or prolonged infringements – up to 10% of total turnover

Source: compiled by the author based on World Bank (2024b), Organisation for Economic Co-operation and Development (2024c)

The Code distinguishes between anti-competitive agreements and unfair competition on the basis of the manner in which such conduct is carried out, the subject of the evidence and the direct object of legal protection. Cartel agreements involve the deliberate coordination of competitors' behaviour with regard to prices, production volumes, market allocation, customers, or the results of tenders. The danger posed by such agreements lies in the elimination of independent market behaviour. Other horizontal and vertical restrictions require a further assessment of the actual or potential impact on competition, market shares, access to markets, the duration of the commitments and the applicability of the exceptions provided for in the Code. Unfair competition does not require the establishment of coordination between several entities. The decisive factor in its classification is the unlawful method of gaining a market advantage: discrediting, imitation, misleading customers, unlawful use of trade secrets, aggressive influence or interference in a competitor's activities. In this case, the subject of the evidence covers the nature of the specific action, its conflict with legislation and business practices, as well as the existence or potential for causing harm to a competitor, a customer or business reputation. The legal consequences also vary according to the severity of the infringement. Horizontal anti-competitive agreements may result in a fine of up to 10% of total turnover; vertical agreements and most forms of unfair competition – up to 5%; and imitation of a competitor's activities, as well as repeated or persistent unfair competition – up to 10%. At the same time, the provisions cited above characterise a normative model of response. Without a broader body of decisions by the competition authority and case law, these findings do not provide grounds for asserting that competition has actually been restored or that the sanctions have a genuine preventive effect.

Institutional implementation of competition law and published results of state oversight

The practical implementation of competition law is determined by the sequence of enforcement procedures: from the detection of an infringement, the conduct of an investigation and the gathering of evidence, to the adoption of a decision, the issuance of a binding order, the imposition of sanctions and the enforcement of administrative or judicial oversight. The Competition Code of the Republic of Azerbaijan[1] establishes the institutional and procedural framework for the detection,

[1] Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from https://static.president.az/upload/Files/2024/01/24/8f751ee37e048b758ebc8815b0e0ffd2_8984225.pdf.

investigation, and cessation of infringements. At its core is the competition authority, whose decisions are binding on the relevant market participants. To examine cases and determine appropriate measures, it establishes a competition commission. The competition authority exercises state control and ensures the enforcement of decisions, whilst the commission examines cases and provides a legal assessment of the conduct in question. State oversight is exercised through investigations, market monitoring and inspections. Articles 42-44 set out the grounds for these, Articles 48-49 specify the procedure for conducting the relevant measures and recording the results, and Article 56 covers the request for documents and information. Where there is a risk of significant or irreparable harm to competition, interim measures may be applied, and certain infringements may be remedied voluntarily before the conclusion of proceedings (Articles 42-44, 48-49, 56, 59-60). The examination of cases by the Competition Commission is governed by Articles 61-65. The parties have the right to examine the case file, submit evidence, explanations, applications, and objections. Articles 64-65 define the subject and means of proof, whilst Article 58 sets out the allocation of the burden of proof between the applicant, the competition authority and the party invoking an exception provided for in the Code (Articles 58, 61-65). Following the examination, the commission adopts a decision in accordance with Articles 66 and 70-71. On this basis, the competition authority issues a binding order to cease the infringement, remedy its consequences and sets a deadline for compliance. Article 73 provides for monitoring compliance with the order and recourse to the courts to enforce the restoration of the previous state of affairs, the declaration of agreements as void, the compulsory conclusion of contracts, or the division of an entity in the event of an unlawful concentration (Articles 66, 70-73). Liability is governed by Articles 76-81, which provide for financial sanctions, the consideration of mitigating and aggravating circumstances, and the recovery of unlawfully obtained income. Procedural safeguards are enshrined in Articles 7, 62, 83 and 84: entities may obtain copies of documents, challenge decisions, orders, actions, or omissions of the competition authority, and seek judicial compensation for damages. Consequently, the Code establishes a coherent cycle of law enforcement: detection of an infringement → investigation and inspection → presentation of evidence → examination of the case → decision and order → sanctions → appeal → remedy of the consequences and compensation for damages.

The institutional role of the competition authority encompasses supervisory, regulatory and sanctioning/remedial powers. The supervisory function involves monitoring compliance with competition law, analysing product markets, determining dominant positions, identifying cartel agreements, reviewing mergers and supervising the activities of natural monopolies. Its function is to identify anti-competitive risks and record infringements. The regulatory function encompasses participation in the formulation of public policy, the drafting of regulatory acts, the approval of mergers and the determination of methods for regulating natural monopolies. It is aimed at establishing conditions designed to prevent the restriction of competition before an infringement arises. The sanctions and remedial unit is responsible for hearing cases, issuing binding orders, imposing financial sanctions, bringing proceedings before the courts and taking measures to restore the market to its previous state. The Agency's official website reflects the broader scope of its activities, which cover antitrust control, natural and state monopolies, unfair competition, advertising, consumer protection, public procurement and quality infrastructure. The combination of these areas makes it possible to regulate both the behaviour of market participants in competitive markets and related sectors where unequal operating conditions may arise. The competition authority's actual exercise of its statutory powers is confirmed by the published reports on its activities for 2023-2024. At the same time, this information reflects the number of complaints examined, cases concluded and measures applied, but does not allow for a full assessment of the impact of enforcement on the structure of the relevant markets. Figure 2 presents the published quantitative indicators of the implementation of competition legislation in the Republic of Azerbaijan for 2023 and January-October 2024.

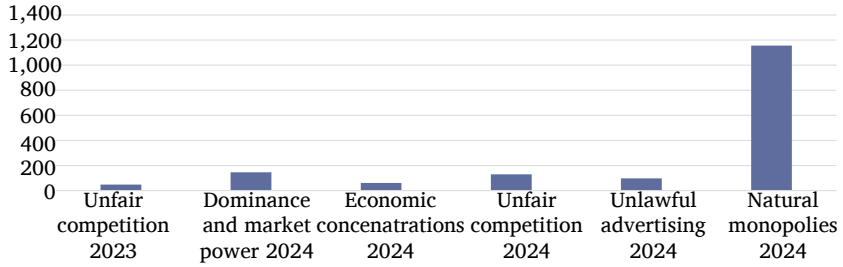


Figure 1. Published indicators of the implementation of competition law in the Republic of Azerbaijan in 2023-2024

Source: compiled by the author based on data from the State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan (2024a; 2024b; 2024c)

Between January and October 2024, the largest number of complaints were dealt with in the area of natural monopolies – 1,156. Of these, 292 complaints were upheld, whilst clarifications and recommendations were provided in respect of 550. In the area of market dominance and significant market power, 146 complaints were considered, of which 87 were upheld, whilst 130 complaints were considered in relation to unfair competition. In the area of unlawful advertising, 98 complaints were examined and 58 upheld, whilst in the area of economic concentrations, 61 complaints were examined, of which 33 were upheld. Consequently, the bulk of the competition authority's work centred on the regulation of natural monopolies and the examination of complaints relating to the market power of economic operators. In the area of unfair competition, 48 cases were concluded in 2023; financial sanctions totalling up to 650,000 manats were imposed on 24 entities, whilst 26 entities voluntarily rectified the infringements. Between January and October 2024, 4 new cases were initiated, and 9 cases were concluded following 130 complaints, of which 5 had been initiated earlier. Sanctions totalling 189,700 manats were imposed on 5 entities and binding orders were issued, whilst 23 entities voluntarily rectified the infringements. A direct comparison of these figures requires caution, as the figures cover different time periods and different stages of enforcement – complaints, the opening of cases and the conclusion of proceedings. In 2023-2024, the competition authority applied procedures for examining complaints and cases, financial sanctions, mandatory injunctions and the mechanism for the voluntary rectification of infringements. In the case concerning "Azərbaycan Dəmir Yolları" QSC, distinct sequential stages of response can be identified: market investigation, establishment of the infringement, imposition of a sanction and issuance of binding injunctions. At the same time, the published materials do not contain systematic data on the enforcement of decisions, the collection of fines, repeat infringements, the outcomes of appeals, or actual changes in competitive conditions. Therefore, whilst confirming the authority's enforcement activity, the available evidence does not provide sufficient grounds for assessing the overall effectiveness of competition control. Furthermore, the case concerning "Azərbaycan Dəmir Yolları" QSC (State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, 2024c) was concluded before the 2023 Competition Code came into force; and therefore, reflects the institutional practice of the competition authority rather than the effectiveness of the new Code's application. Judicial review constitutes a separate component of the institutional mechanism. The Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan"[1] concerned the enforcement of a financial penalty and a penalty charge imposed for a breach of the legislation on unfair competition. It confirms the existence of a judicial mechanism for reviewing the legal consequences of antitrust control. However, due to the time that has elapsed since the decision was made and the lack of a body of the latest judicial precedents, it does not reflect the practice of applying the 2023 Code and does not allow for an assessment of the consistency of judicial review.

Competition control also covers the activities of the public sector. Markets may be distorted not only by private monopolistic practices, but also by the opaque involvement of state-owned enterprises, unequal access to resources, administrative advantages or weak corporate governance. The Organisation for Economic Co-operation and Development (2024a) review of the corporate governance of Azerbaijan Investment Holding and its state-owned enterprises provides grounds for taking into account the impact of state-owned enterprises and corporate governance on the competitive environment. For a legal model of competition protection, this means that effective oversight must extend not only to the behaviour of private entities but also to those market conditions in which state-owned or state-affiliated entities may gain advantages. The institutional model for the implementation of competition law is presented in Table 2.

Table 2. Institutional model for the implementation of competition law in the Republic of Azerbaijan

Regulatory framework	Competition Code of the Republic of Azerbaijan	Prohibitions, rights, procedures
Institutional level	Competition authority	Control, regulation, supervision
Case handling	Competition Commission	Assessment of evidence and infringements
Evidence phase	Inspections and investigations	Fact-finding, market analysis
Legal consequences	Decisions, orders, and sanctions	Ceasing infringements
Guarantees	Appeals	Review of the legality of decisions
Consequences provided for by law	Cessation of the infringement, rectification of its consequences, and the possibility of compensation for damages	Protection and the possibility of restoring infringed rights

Source: compiled by the author based on Organisation for Economic Co-operation and Development (2024a)

[1] Decision of the Constitutional Court of the Republic of Azerbaijan "On the Interpretation of Certain Provisions of Article 467 of the Civil Code of the Republic of Azerbaijan". (2014, July). Retrieved from https://www.constcourt.gov.az/az/decision/853.

The data published for 2023-2024 confirm the use of certain elements of this model, in particular the consideration of complaints and cases, the imposition of financial sanctions, the issuance of orders and the voluntary rectification of infringements. At the same time, the lack of systematic data on the enforcement of decisions, the imposition of sanctions, appeals, and the annulment of acts, repeat infringements and changes in the state of competition makes it impossible to assess the overall effectiveness of state control. Consequently, the materials examined confirm the existence and partial practical application of the institutional model, but do not prove the actual restoration of a competitive environment.

Areas for improving the legal framework for combating monopolies and unfair competition

The strategic context reinforces the importance of such changes. The 2022-2026 Social and Economic Development Strategy of the Republic of Azerbaijan (2022) focuses state policy on economic diversification, private sector development and enhancing institutional resilience. Azerbaijan in Figures 2024 (State Statistical Committee of the Republic of Azerbaijan, 2024b) provides an insight into the economic and business environment in which competition law operates. Therefore, improvements to the legal framework should be aimed at refining the criteria for defining the relevant product and geographic markets, calculating market shares, and establishing individual and collective dominance, significant market power and economic dependence of counterparties. Further clarification is also required regarding indicators of a substantial restriction of competition, the rules for assessing horizontal and vertical agreements, barriers to entry, access to essential resources, network effects and the consequences of economic concentrations. Procedural certainty should encompass standards of proof, the procedure for economic analysis, the reasoning behind decisions, the determination of the level of sanctions and the monitoring of compliance with orders. This will ensure the uniform application of the rules and the predictability of state oversight.

International sources enable the identification of comparative indicators of the quality of law enforcement. Organisation for Economic Co-operation and Development (2024b) Competition Trends 2024 and Organisation for Economic Co-operation and Development (2025) Competition Trends 2025 are statistical and analytical reports compiled on the basis of data from competition authorities within the Organisation for Economic Co-operation and Development CompStats database. The reports compare the human and financial resources of the authorities, the number of cartel investigations and cases of abuse of a dominant position, decisions adopted, sanctions imposed, notified concentrations, prohibited transactions and agreements on corrective measures. The 2024 report analyses trends in merger control separately, whilst the 2025 report examines the dynamics of enforcement and the resource allocation of competition authorities. These materials do not directly confirm the effectiveness of competition control in Azerbaijan, but the materials provide comparative benchmarks for its assessment: the intensity of investigations, the soundness of decisions, the imposition of sanctions, the use of corrective measures and the adequacy of institutional resources.

International materials have been used to establish criteria for assessing Azerbaijan's competition control mechanism. The United Nations Conference on Trade and Development (2024) approach requires the existence of legal means to counter restrictive business practices, the institutional capacity of the competition authority, international cooperation and consideration of economic development objectives. The European Commission's (2025) approach specifies requirements for law enforcement through the publication of decisions, the procedural reviewability of the authority's actions, economic analysis of market power, methodological assessment of mergers, the application of proportionate sanctions and remedial measures, as well as the development of competition compliance. On this basis, the mechanism of the Republic of Azerbaijan was assessed against the following criteria: the institutional independence and adequacy of the competition authority's powers; the transparency and reasoned nature of decisions; the clarity of investigation and evidence-gathering procedures; the quality of the definition of the relevant market, market shares, dominance, and barriers to entry; the existence of a methodology for assessing the actual and potential effects of mergers; the proportionality of sanctions and monitoring of compliance with remedies; the availability of administrative and judicial remedies; and the use by undertakings of internal compliance programmes. A comparison based on these criteria makes it possible to distinguish between the formal existence of legal instruments and the procedural capacity to ensure consistent enforcement.

The analysis carried out has made it possible to identify four problems within the legal mechanism for protecting competition, which are documented and require regulatory or methodological resolution. The first issue relates to the limited transparency of enforcement outcomes. Official documents for 2023-2024 contain figures on the number of cases and complaints examined, the amounts of sanctions imposed, and information on the voluntary rectification of infringements. At the same time, the analysed materials do not provide systematic data on the grounds for decisions, compliance with orders,

the actual imposition of sanctions, appeals, and the annulment of acts. The risk model is as follows: aggregated reporting → lack of access to legal criteria → inconsistent understanding of requirements by market participants → regulatory uncertainty.

The area for improvement lies in the creation of an open register of non-confidential decisions, the publication of legal positions, methodologies for market definition and sanctions, as well as annual data on the enforcement and appeals against decisions. In the European Union, this risk is mitigated through the publication of public versions of decisions, access to information on the progress of cases, and the application of the Notice on the Definition of the Relevant Market. The expected benefit for economic security is an increase in the predictability of state regulation and the creation of a foundation for competition compliance (European Commission, 2024; 2025). The second issue concerns the application of the category of significant market power. The Code provides for the possibility of regulating the behaviour of an entity that has not reached the formal threshold of dominance but holds an economic advantage over dependent counterparties. However, the case law examined does not set out a specific methodology for assessing such dependence. Risk model: lack of clear criteria for dependence → failure to identify bargaining inequality → imposition of terms on small and medium-sized enterprises → reduction in the number of independent market participants. It would be advisable to include among the criteria the availability of sufficient alternatives, the costs of switching to another counterparty, the share of the main buyer or supplier in the enterprise's turnover, the duration of the contractual relationship, access to networks, data and distribution channels, as well as the balance of bargaining power between the parties. In Germany, Section 20 of the Act against Restraints of Competition extends control to relative market power where a counterparty lacks sufficient and acceptable alternatives and there is a significant imbalance between the parties.

The provision also covers dependence on digital intermediaries and access to data. The intended effect is to reduce the risk of economic crowding-out of small enterprises without the need to prove classic dominance[1]. The third issue concerns the lack of transparency in the practice of merger control. Between January and October 2024, the competition authority examined 61 applications concerning concentrations and approved 33 applications; however, the published notice does not specify the types of transactions, the definition of the relevant markets, the identified competition risks, the conditions of approval or the remedial measures applied. Risk model: assessment based primarily on formal thresholds → insufficient identification of structural risk → increased market power following the completion of the transaction → rising barriers to entry and increased dependence of counterparties. Areas for improvement should cover methodologies for assessing horizontal and non-horizontal concentrations, potential competition, innovation effects, access to resources, network effects and the position of consumers. It is also advisable to establish procedures for the application of structural and behavioural commitments and for the subsequent monitoring of the implementation. In the European Union, the assessment of concentrations is based on separate guidelines concerning horizontal and non-horizontal transactions, the definition of the relevant market and permissible remedial measures. The procedure provides for simplified review, in-depth investigation, conditional approval or prohibition of the transaction. The expected outcome is to prevent a lasting increase in market power until structural changes in the market are completed (Guidelines on the…, 2004; Guidelines on the…, 2008).

The fourth issue relates to the competitive neutrality of the public sector. The Organisation for Economic Co-operation and Development (2024a) has identified a significant presence of Azerbaijani state-owned enterprises in the energy, infrastructure, utilities and competitive sectors, and has drawn attention to the need to separate the state's functions as owner, regulator, and market participant. Separate mention was made of the use of preferential financing by certain state-owned enterprises. Risk model: advantages associated with state ownership → lower cost of financing or priority access to resources → crowding out of private competitors → structural dependence of the market on state entities. The proposed improvements include the introduction of an assessment of the competitive neutrality of state support, disclosure of preferential financing, compensation payments for advantages received, the separation of ownership and regulatory functions, and a special procedure for handling complaints from private competitors. In Australia, there is a separate mechanism for handling complaints regarding breaches of competitive neutrality by state-owned enterprises, which is administered by a specialised unit of the Productivity Commission (2024). The expected outcome is a reduction in administrative advantages and the levelling of the playing field between state-owned and private entities. Consequently, improvements to the legal framework should focus on the transparency of decisions, the systematic determination of economic dependence, enhanced scrutiny of mergers, and the competitive neutrality of the public sector. The

[1] Competition Act of Germany. (2023, October). Retrieved from https://www.gesetze-im-internet.de/englisch_gwb/.

proposed risk models do not prove that negative consequences will automatically arise, but these models identify a sequence of conditions under which regulatory uncertainty may pose a threat to market openness. International experience shows that such risks are mitigated through public methodologies, well-reasoned decisions, specific rules for assessing market power, corrective measures and independent complaint-handling mechanisms.

Consequently, four areas for improving the legal framework for competition protection have been identified: enhancing the transparency of the competition authority's decisions; providing methodological clarification of significant market power and economic dependence; refining the assessment of economic concentrations; and ensuring the competitive neutrality of the public sector. The proposed measures are aimed at reducing regulatory uncertainty, preventing the strengthening of market power and limiting administrative advantages. The expected impact on economic security lies in increasing the predictability of state control and preserving economic operators' access to markets and resources.

Discussion

The findings are consistent with international studies in which competition policy is regarded as a factor influencing regulatory quality, trust in state institutions and the stability of the market environment. The study found that legal protection of competition in the Republic of Azerbaijan influences market openness, equal access to resources for economic operators, the predictability of state control and the prevention of excessive concentration of economic power. A similar line of reasoning was presented in the study by S. Mariotti & R. Marzano (2021), in which competition policy, regulatory quality and trust in institutions were identified as factors influencing the inflow of foreign direct investment into host countries. The findings were consistent with this approach in recognising competition policy as a component of a state's institutional quality, but shifted the emphasis from investment attractiveness to economic security. The issues of risk and uncertainty in the antitrust sphere were further explored by J.A. Clougherty & N. Zhang (2021), who demonstrated how foreign investors react to instability in antitrust enforcement. These findings were directly consistent with the results of this article, in which the transparency of the competition authority's decisions, the clarity of dominance criteria and the predictability of enforcement were identified as conditions for the effective protection of competition. The link between competition policy and economic security was also linked to studies in which the public interest was considered through the prism of the risk of legal uncertainty. In a paper by K. Lai (2021) on the ambiguity of policy regarding foreign direct investment and national security, it was shown that security arguments can create scope for indefinite state intervention. A similar problem was identified in the context of the Republic of Azerbaijan: economic security requires not an expansion of administrative discretion, but clear criteria for assessing market power, concentrations, discriminatory access to resources and procedural control. In a study by R. Brutger & A. Pond (2025), support for antitrust policy was linked to international economic relations and perceptions of companies' competitive positions. This approach is consistent with the findings of the present study, as the fight against monopolisation in the Republic of Azerbaijan was revealed not only as a domestic legal instrument but also as a condition for maintaining confidence in the market environment. The interaction between antitrust policy and related public-law instruments was examined by J. Lee & A. Pond (2025), who considered the link between antitrust policy and corporate taxation. In the present study, this relationship manifested itself through the link between competition regulation and economic security, the institutional implementation of the Code, and the state's ability to control market distortions.

The findings regarding the regulatory structure of the Republic of Azerbaijan's Competition Code were compared with studies devoted to the development of protection against unfair competition. In the work by M. Senftleben (2024), protection against unfair competition in the European Union was examined through the transition from various national approaches to harmonised rules concerning search engine rankings, influencers, and greenwashing. The findings were consistent with this approach insofar as unfair competition cannot be limited to traditional forms of disparagement or imitation, as modern markets give rise to new informational and advertising methods for gaining an unfair advantage. The protection of business reputation through the instruments of trademark law was explored by G. Lepik (2021), who demonstrated the role of trademark law in countering unfair practices. The research findings identified a similar problem in relation to the imitation of products, packaging, brands, domains and digital interfaces, which requires a clear legal distinction between legitimate imitation and the unlawful exploitation of a competitor's reputation. In the work by S. Scheuerer (2021), artificial intelligence was identified as an underestimated element of the regulatory landscape governing unfair competition. This conclusion is consistent with the findings of this article, in which misleading advertising, misleading customers and the imitation of business reputation were identified as practices requiring more precise assessment criteria. In a study by E.M. de Almeida Leite & M.A. Ramos Leite (2025), focusing on platform liability, freedom of speech and

market fairness, commercial defamation was examined as an element of digital competition. These findings were consistent with the results obtained, where the discrediting of a competitor and misleading information were identified as forms of unfair conduct that harm not only the individual entity but also trust in the market environment.

The distinction between anti-competitive agreements and unfair competition in the findings was consistent with research on online business and the digital economy. In a comparative study by ASMAH (2022), competition law in online business was examined using case studies from the United Kingdom and Indonesia, focusing on the regulation of market access, vertical restraints and the behaviour of digital entities. A similar approach was adopted in this article, where anti-competitive horizontal and vertical agreements were distinguished from unfair practices on the basis of the legal nature, the threat posed to the market, and the expected outcome of legal intervention. In the study by Y.S. Choi & P. Porananond (2023), the competition law of the Association of Southeast Asian Nations member states was examined through the lens of the need for harmonisation in the digital economy. This approach aligns with findings regarding the institutional implementation of competition law in the Republic of Azerbaijan, as the effectiveness of the legal mechanism depends not only on the substance of substantive prohibitions but also on the consistency of the procedure: the Code, the competition authority, the competition commission, investigations, decisions, sanctions, appeals, and the restoration of a competitive environment. The legal remedies against monopolistic behaviour, identified in the findings through dominant position, significant market power and economic concentration, were consistent with contemporary research on the abuse of market power; in the work by A. Pandey & V. Sharma (2025), effective responses to the abuse of dominance in digital markets were linked to platform-specific characteristics, network effects and the interaction between competition and sector-specific regulation. The findings were consistent with this approach in that the effectiveness of measures to counter monopolistic behaviour cannot be based solely on an entity's formal market share. In V. Ruelle's (2022) paper, digital merger control was examined through the adaptation of harm theories to horizontal, vertical, conglomerate, and ecosystem effects. This conclusion was directly consistent with the author's proposal to refine the assessment of concentrations by examining the impact on market structure, potential competition, innovation, prices, access to resources and the position of consumers.

The evidentiary aspect of abuse of dominance also confirmed the need for more precise enforcement. In a paper by E. Deutscher (2023), devoted to causation and counterfactual analysis in cases of abuse of dominance, it was shown that establishing an infringement requires proving a link between the entity's behaviour and competitive harm. A similar problem was identified in this study: market share thresholds are not sufficient for a comprehensive assessment of dominance, significant market power or the anti-competitive effect of concentration. In the study by M. Kadar & L. Manigrassi (2022), the market power of online platforms was examined through the lens of platform structure and network effects. The findings were consistent with this approach through the concept of significant market power, which allows for the consideration of economic dependence even when a firm's formal market share does not fully reflect its actual influence. In the Article by A. D'Amico (2024), the interplay between competition law and privacy was illustrated using the example of Meta Platforms. This approach was also of particular relevance to the present study, as the development of digital distribution channels and information resources may broaden the criteria for assessing market power. The issue of the boundaries of good-faith conduct was linked to works analysing the distinction between fierce but lawful competition and infringement. In D. Alma's (2022) study, "fairness" and "competition on the merits" were examined as complex categories in the application of Article 102 of the Treaty on the Functioning of the European Union. These provisions were consistent with findings that emphasised the need to distinguish between anti-competitive agreements, unfair conduct and normal commercial competition. A critical approach to the expansion of antitrust was presented by E. Loozen (2024), who analysed "green antitrust" and cautioned against expanding antitrust objectives without a sufficient evidence base. The findings were consistent with this position, as the proposed areas for improvement for the Republic of Azerbaijan concerned not a formal expansion of prohibitions, but rather a clarification of the criteria for dominance, concentrations, significant market power and unfair conduct. Studies in which market power was analysed through the lens of access to data, resources, and infrastructure were of particular significance for the discussion of the findings. In a paper by C. Atik (2023) on the digital agricultural sector, the potential of the "refusal to deal" doctrine to resolve data access issues was demonstrated. This approach aligns with the findings presented here, where an unjustified refusal to grant access to a network, infrastructure or essential resource was identified as a form of abuse of market power. In a study by S.M. Colino (2024), the boundaries of "green antitrust" were re-examined through the lens of the environmental impact of competition law. The approaches outlined in this work concur that competition law must respond to new societal

and market challenges, whilst maintaining evidential clarity and legal certainty.

A synthesis of international approaches has shown that the findings presented are consistent with current trends in competition law scholarship, whilst retaining the national legal focus. In much of the international literature, competition policy is examined through the prism of investment attractiveness, digital platforms, online advertising, "green antitrust" or the platform economy. A comparison with international studies has confirmed that the continued effectiveness of this model depends on the level of detail in the criteria, the transparency of the competition authority's decisions, the development of competition compliance, the protection of small and medium-sized enterprises, and the ability to respond to new forms of market power.

Conclusions

The findings have made it possible to form a comprehensive understanding of the legal framework for combating monopolies and unfair competition in the context of the state's economic security. Legal protection of competition influences market openness, equal access to resources for economic operators, the stability of the business environment, confidence in state regulation, and the state's ability to prevent excessive concentration of economic power.

The constitutional and institutional levels of legal protection for competition have been established separately. Article 15 of the Constitution of the Republic of Azerbaijan enshrines the state's obligation to prevent monopolies and unfair competition; Article 59 guarantees freedom of enterprise; and Article 60 provides for administrative and judicial protection for market participants. Law No. 1051-VIQ of 8 December 2023 and Decree of the President of the Republic of Azerbaijan No. 2451 of 23 January 2024 formalised the introduction of the Code and the allocation of powers for its implementation. Documents published by the competition authority for 2023-2024, the case concerning "Azərbaycan Dəmir Yolları" QSC, and the Decision of the Constitutional Court of 15 July 2014 confirm the practical application of specific procedures, sanctions, injunctions and judicial review. At the same time, the lack of systematic data on the enforcement of decisions, the imposition of sanctions, repeat infringements and the outcomes of appeals does not provide grounds for asserting the overall effectiveness of the new legal mechanism.

It has been confirmed that the legal means of combating monopolistic practices cover dominant positions, joint dominance, significant market power, abuse of a dominant position, discriminatory terms, denial of access to resources, excessively high and low prices, and economic concentration. The significance lies in curbing the accumulation of market power and protecting economic operators from dependence on stronger market participants. It has been separately established those anti-competitive agreements and unfair competition have different legal natures. Anti-competitive agreements are aimed at coordinating the behaviour of market participants, whereas unfair competition involves the unlawful acquisition of an advantage through deception, disparagement, imitation, the unlawful use of trade secrets or unfair advertising. The institutional implementation of competition law encompasses regulatory framework, the activities of the competition authority and the competition commission, market investigations and analyses, the taking of evidence, decision-making, the issuance of orders, the imposition of sanctions, and administrative or judicial appeals against such sanctions. The legally prescribed consequences of this mechanism include the cessation of the infringement, the rectification of its effects, and the possibility of compensation for damages. The practical effectiveness of this model depends on the transparency of decisions, the quality of market analysis, the evidential soundness of conclusions, and the ability to control distortions of competition in the private and public sectors.

The limitations of this study stem from its theoretical and legal nature and the use of statistical and international analytical materials as supplementary background. Further research should focus on analysing the practical application of the Code, the decisions of the competition authority, judicial appeals, merger control and the impact of competition law enforcement on specific sectors of the economy of the Republic of Azerbaijan.

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Conflict of Interest

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Правові засади боротьби з монополіями та недобросовісною конкуренцією в контексті національної економічної безпеки

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■ **Анотація.** Метою статті було визначення структурного та функціонального призначення правового механізму протидії монополіям і недобросовісній конкуренції в Азербайджанській Республіці в контексті економічної безпеки держави. Дослідження ґрунтувалося на аналізі Конституції Азербайджанської Республіки, Кодексу про конкуренцію та пов'язаних з ними законодавчих актів, а також матеріалів органів з питань конкуренції, судової практики, програмних і стратегічних документів, міжнародних підходів. Було застосовано конституційно-правовий, формально-правовий, системний, інституційно-правовий, порівняльно-правовий методи й метод правового моделювання. Аналіз засвідчив, що конституційна основа захисту конкуренції ґрунтується на кількох взаємопов'язаних принципах, які охоплюють обов'язок держави запобігати монополізму й недобросовісній конкуренції, гарантію свободи підприємництва та право на адміністративний і судовий захист. Кодекс про конкуренцію Азербайджанської Республіки встановлює кодифіковану модель регулювання конкуренції. Він охоплює контроль за антиконкурентними угодами, домінувальними позиціями, значною ринковою владою, недобросовісною конкуренцією та економічними концентраціями. Ці матеріально-правові норми поєднуються з процедурами проведення розслідувань, оцінки доказів, застосування санкцій та оскарження рішень. Визначено превентивні, контрольні, санкційні та виправні функції цього механізму. Встановлено, що антиконкурентні угоди вирізняються координацією поведінки учасників ринку, натомість недобросовісна конкуренція полягає в односторонньому отриманні незаконної переваги шляхом обману, дискредитації, імітації, незаконного використання комерційних таємниць або недобросовісної реклами. Аналіз матеріалів антимонопольного органу за 2023–2024 роки, справи щодо акціонерного товариства «Azərbaycan Dəmir Yolları» та рішень Конституційного суду підтвердив застосування певних процедур, санкцій, заборонних судових наказів і судового перегляду, однак не надав підстав для висновку про загальну ефективність нового Кодексу. Було визначено чотири напрями для вдосконалення: підвищення прозорості рішень антимонопольного органу; уточнення критеріїв значної ринкової влади й економічної залежності; деталізація контролю за економічними концентраціями; забезпечення конкурентної нейтральності державного сектору. Отримані висновки можуть бути використані в регуляторній, правоохоронній та судовій діяльності, а також під час розроблення програм дотримання конкурентного законодавства

■ **Ключові слова:** інституційна реалізація; відкритість ринку; контроль за концентраціями; недобросовісна конкуренція; економічна безпека