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## **THE START AND PROCESS OF THE SUMGAIT POGROMS OF THE ARMENIAN POPULATION**

**Key words:** Sumgait, pogroms, massacres, genocide, crimes against humanity, ethnic cleansing, Armenophobia.

### ***Introduction***

There are a lot of testimonies, reports of international organisations, court evidence, investigative-judicial protocols as well as court verdicts on the massacres of the Armenian population in the city of Sumgait (Sumqayit) in the Soviet Socialist Republic of Azerbaijan, committed from February 27 to February 29 in 1988. The aforementioned documents and evidence allow us to comprehensively present the course of events. However, it should be highlighted that in political and, in some cases, scientific circles, these tragic events are sometimes viewed as mere hooliganism, a result of exclusively hooligan-motivated killings.

Due to the comprehensive analysis of factual data on the circumstances of the commencement and process of the massacres of the Armenian population in Sumgait (also known as the “Sumgait pogrom”), this article attempts to substantiate that the massacres were (1) based on national hatred; 2) were organised and coordinated. The substantiation of the mentioned circumstances will contribute to the study of the nature of the discriminatory policy pursued in Azerbaijan towards the Armenian population and its consequences. In addition, this article aims at providing legal analysis of the crimes committed in Sumgait from the point of view of the international criminal law.

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## **The Start and Process of the Sumgait Pogroms of the Armenian Population**

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### ***National Hatred at the Root of the Pogroms***

On February 20, 1988, the Stepanakert Regional Council of People's Deputies of the Nagorno-Karabakh Autonomous Region decided at a special session to refer to the Supreme Soviets of the Azerbaijani and Armenian SSRs to return the NKAO from the Azerbaijani SSR to the Armenian SSR<sup>1</sup>.

In response to the above-mentioned decision, the first demonstrations began in 1988 in the Azerbaijani town of Sumgait on February 26, initially limited to chants<sup>2</sup> by some groups about Nagorno-Karabakh being part of Azerbaijan, as well as “testimonies”<sup>3</sup> of violence against the Azerbaijani population in the town of Kapan in the Armenian SSR, and anti-Armenian calls<sup>4</sup>.

The news on the violence against Azeris in the Armenian SSR spread by the mass media and some participants to the demonstrations were later refuted during the trials, including by the defendant Ahmedov Ahmed's advocate Yashin<sup>5</sup>.

In 1988, in the conditions of non-denial<sup>6</sup> of the false public news about the ethnic clashes between Armenians and Azeris, several thousand people took part in the demonstrations in Sumgait on February 27, 1988 calling to kill Armenians, to expel them from the city and Azerbaijan. Not only the “injured in Kapan” made nationalistic speeches, but also the Director of School No. 25, a theatre actress, and so on<sup>7</sup>.

Given the escalation of hatred towards the Armenians in 1988, the violence against the Armenian civilian population started in Sumgait on February 27. The main slogan of the demonstrations was “Death to Armenians”<sup>8</sup>, the flags of the Azerbaijani SSR appeared in the hands of the protesters<sup>9</sup> <sup>10</sup>, the calls to physically exterminate the Armenians began to sound much more firmly<sup>11</sup>.

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<sup>1</sup> de Waal 2013, 13–14.

<sup>2</sup> Шахмурадян 1989, 359.

<sup>3</sup> Шахмурадян 1989, 100–114.

<sup>4</sup> Кривоусков 2007.

<sup>5</sup> Геворкян 1998, 83–84.

<sup>6</sup> Улубабян и др. 1989, 21.

<sup>7</sup> Улубабян и др. 1989, 13.

<sup>8</sup> Геворкян 1998, 41, 73.

<sup>9</sup> Григорян 2018, 41.

<sup>10</sup> Геворкян 1998, 20.

<sup>11</sup> Шахмурадян 1989, 100–114.

The above-mentioned circumstances confirm the fact that the participants of the demonstrations preceding the Sumgait massacres had a clear and united idea of nationalist nature. Thus, the demonstrations in Sumgait, initially having started in response to the political demands of the NKAO Armenian population, soon started clearly expressing slogans of physical retaliation against the peaceful Armenian population of the city. It was in those conditions that the physical violence against the Armenians, the murders, the rapes, the destruction of their apartments and the destruction of their property started and was further continued.

The facts of the Sumgait massacre perpetrators, committing crimes based on national hatred are substantiated by the data available in the court cases. In particular, in the case of Ahmedov Ahmed, a lot of evidence is available on how a man with a microphone called on the protesters to take physical revenge on the Armenians. False news about the murders of Azeris in the Armenian SSR was cited as a justification of murders committed with particular cruelty<sup>12</sup>.

The rioters attempted to find out where the Armenian civilian population resided<sup>13</sup>. It is noteworthy that even in the absence of receiving the addresses of the Armenians from other residents, the rioters still managed to effectively find the apartments, belonging to the Armenians<sup>14</sup>.

The ethnic hatred behind the Sumgait massacres was confirmed in the verdicts of the Voronezh regional court. In particular, in the case of Mehdiyev, Rzaev and Turabiev<sup>15</sup>, as well as in the case of Ahmedov, Ismayilov and Jafarov<sup>16</sup>, the fact of murders committed purely for nationalistic motives was confirmed. More importantly, the fact that the murders, the destruction of apartments, and the crimes in Sumgait were committed for nationalistic motives against the Armenians, who were a national minority in the city, was confirmed by the Supreme Court of the Azerbaijani SSR, stating that the court case proved the fact

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<sup>12</sup> Геворкян 1998, 13, 38, 72.

<sup>13</sup> Григорян 2018, 17.

<sup>14</sup> Геворкян 1998, 42.

<sup>15</sup> Приговор Воронежского областного суда по делу Мехдиева, Рзаева, Турабиева 1988.

<sup>16</sup> Геворкян 1998, 85–87.

### **The Start and Process of the Sumgait Pogroms of the Armenian Population**

of inciting national hatred towards the Armenians by committing crimes against Armenians<sup>17</sup>.

Based on the above presented factual circumstances, a conclusion can be made that in 1988 the crimes committed with particular cruelty against the Armenians in Sumgait, Azerbaijan, from February 27 to 29, were committed with the motive of national hatred.

#### ***The Organised Nature of Massacres***

The study of the sources and the data available on the mass murders of the Armenian civilian population in Sumgait in February 1988 leads to the separation of certain patterns, based on which reasonable suspicions about the organized nature of the massacres can emerge. From this perspective, it is indeed necessary to discuss the most suspicious circumstances and the available evidence in regard to that accordingly.

##### **1) Telephone Connection Failure**

There is a lot of evidence pinpointing that the telephone connection failed in Sumgait during the days of the massacres. It should be highlighted that it was not about a total failure of the telephone connection, but its shutdown. Some authors and witnesses claim that the main target of the telephone connection shutdown were the apartments belonging to the Armenians<sup>18 19 20</sup>. One of the witnesses of the incident, Konstantin Pkhakadze, claimed that from Sunday of February 28 until noon of February 29, no telephone was working in the city<sup>21</sup>. Information about this is available in the testimonies of Ryzhkov<sup>22</sup> and Tayubov<sup>23</sup>.

It is noteworthy that Omarov M., the person responsible for the telephone connection in the city, who was summoned during the trial, did not deny the information about the intentional disconnection of some of the telephone numbers, bringing the “argument” that the connection was overloaded and an order from the deputy minister had been received to act “as per procedure”. To

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<sup>17</sup> Приговор судебной коллегии по уголовным делам по I инстанции Верховного суда Азербайджанской ССР 1989.

<sup>18</sup> Улубабян и др. 1989, 28.

<sup>19</sup> Марукян 2008.

<sup>20</sup> Геворкян 1998, 28.

<sup>21</sup> Шахмурадян 1989, 100–114.

<sup>22</sup> Григорян 2018, 40.

<sup>23</sup> Григорян 2018, 46.

the question whether it is possible to determine through this commonly used procedure which telephone numbers have been disconnected, Omarov gave a negative answer<sup>24</sup>. The aforementioned, nonetheless, gives grounds for doubts, taking into account the fact that Omarov himself referred to the existence of a specific procedure followed in such cases, but at the same time, the latter refused to clarify the principles of operation of such a procedure. According to Omarov, the telephone connection of the city was completely restored only as of March 2<sup>25</sup>.

## **2) Police Inaction**

The city police inaction, and according to some sources, the actions aimed at inciting the perpetrators of crimes, speaks of the pre-organized nature of the Armenian massacres in Sumgait with the law enforcement bodies<sup>26</sup>.

The inaction of the police and other law enforcement bodies is evidenced both by witness testimonies, as well as court record and reports of discussions of the USSR political leadership, which possessed operational information on the cases.

As a result of following the police behaviour, the population of the city got a clear impression that the police supported and cooperated with the rioters. People who asked the city police for help received generic answers about the need to wait. Moreover, in some cases the crimes were committed in the presence of the police forces and in the conditions of the latter's criminal inaction<sup>27 28</sup>. According to the testimony of the convict Turabiev, he was actively induced by the police officer to commit crimes<sup>29</sup>.

In the conditions of the police inaction, the rioters carried out the actions of stopping cars in the city and checking the presence of Armenians in them<sup>30</sup>. Witnesses often claimed that the police had sufficient information about the incidents but did not take any measures to prevent them<sup>31</sup>.

There is interesting data available in regard to the police force inaction in Sumgait in the meeting minutes of the Political Bureau of the Central Committee

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<sup>24</sup> Геворкян 1998, 66.

<sup>25</sup> Григорян 2018, 50.

<sup>26</sup> Марукян 2008.

<sup>27</sup> Улубабян и др. 1989, 21–22.

<sup>28</sup> Геворкян 1998, 75.

<sup>29</sup> Улубабян и др. 1989, 24.

<sup>30</sup> Геворкян 1998, 39.

<sup>31</sup> Геворкян 1998, 48.

### **The Start and Process of the Sumgait Pogroms of the Armenian Population**

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of the Communist Party of the Soviet Union (CPSU) on February 29, during which CPSU Secretary General Mikhail Gorbachev repeatedly criticised the police for failing to intervene in the mass massacres and insisted on the immediate replacement of the Sumgait police chief<sup>32</sup>.

Information on the police force's Armenophobia has also been provided by the Assistant Prosecutor General of the USSR, N. Yemelyanov<sup>33</sup>.

#### **3) Participation of Politicians**

The role of the first secretary of the city committee of the Communist Party, Jahangir Muslim-Zadeh, during the demonstrations against Armenians in Sumgait needs an additional discussion. According to witnesses, on February 27, Muslim-Zadeh made a public speech in front of the protesters, ostensibly calling them to stop. The latter insisted that Armenians should be allowed to leave the city peacefully. This request had a provocative effect on the protesters, giving them a chance of a clearer realisation of a possible alternative solution<sup>34</sup>.

And already during the protest on February 28, he took the flag of the Azerbaijani SSR to lead the protesters from Lenin Square<sup>35</sup>.

#### **4) Murders Committed in Public Places**

By a strange "coincidence", the vast majority of crimes committed with particular cruelty in Sumgait took place in public places. As a result of the examination of the testimonies and court documents, a conclusion can be drawn that the choice of the method of murder by the criminals is not accidental.

Among other victims, Lola Avakyan, Yuri Avakyan, Albert Avanesyan, Valeri Avanesyan, Emma Grigoryan, Nikolay Danielyan, Danielyan Seda, Garin Martirosyan, Igor Melkumyan, Eduard Melkumyan, Irina Melkumyan. Melkumyan Raisa, Melkumyan Piruza, were evicted from their apartments and publicly murdered<sup>36 37</sup>.

From the above presented directly follows that despite the fact that the intent was the murder of Armenians on national grounds, there were clear patterns in

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<sup>32</sup> Стенограмма заседания Политбюро ЦК КПСС 1988.

<sup>33</sup> **Karabakh Records**, 2012, 00:14:27–00:15:45.

<sup>34</sup> **Шахмурадян** 1989, 100–114.

<sup>35</sup> **Улубабян** и др. 1989, 13.

<sup>36</sup> **Геворкян** 1998, 8, 11, 15, 32.

<sup>37</sup> **Григорян** 2018, 14–15, 18, 24, 30–31, 46.

the methods of the murder. In particular, they were committed with **particular cruelty** and in **public places** as much as possible.

#### **5) Road Control**

During the Sumgait massacres, the rioters established control over the city roads, checking the presence of Armenians in the cars. On February 29, Gary Martirosyan, who was coming from Baku to his family in Sumgait, was taken out of the car and killed<sup>38</sup>. The duty of controlling one road entering the city and checking the cars was carried out by 300–400 rioters, who were trying different methods to find out the nationality of all the people in the cars<sup>39</sup>.

#### **6) Elimination of Crime Traces and Concealment**

There is information that during the night of February 27–28, repair and restoration works were immediately started in the city. The works were carried out with such vigour and in such a hurry that they seemed suspicious in the eyes of the witnesses<sup>40</sup>. A special government commission had been appointed for the specific purpose of organising this work<sup>41</sup>. There was a clear instruction given by Ganifaev, a representative of the Central Committee of the Communist Party of Azerbaijan, to burn and cover the destroyed property with soil<sup>42</sup>.

According to the same sources, out of 16 women who reported rape, the Republican Bureau of Medical Examination of Azerbaijan confirmed the reports of only two of them. Those living illegally in the city were immediately expelled, despite the fact that many of the rioters were in the same situation<sup>43</sup>.

In other words, following the end of the Armenian massacres in Sumgait, Azerbaijan's officials spared no effort to cover up the criminals as well as the material evidence essential for the detection of crimes.

#### **Conclusion**

According to the results of the study of the Sumgait pogroms in the Azerbaijani SSR from February 27 to 29, 1988, it is possible to single out and substantiate two allegations about the massacres.

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<sup>38</sup> Шахмурадян 1989, 336.

<sup>39</sup> Еганян 2000.

<sup>40</sup> Шахмурадян 1989, 100–114.

<sup>41</sup> Улубабян 1991.

<sup>42</sup> Григорян 2018, 46.

<sup>43</sup> Улубабян и др. 1989, 29.

### **The Start and Process of the Sumgait Pogroms of the Armenian Population**

First, the Sumgait massacres were motivated by national hatred, they were aimed at physical revenge against a specific nation: the Armenians. This is evidenced by historical, including judicial detailed documentation.

Second, the study of the Sumgait events proves not only the widespread but also organized nature of the massacres. Particularly, during the days of the massacres, the telephone connection was cut off in the city, the law enforcement bodies showed criminal inaction, some of the politicians participated in rallies, made calls, there were common patterns in the killings of Armenians, the city roads were controlled, traces of destruction were operatively eliminated.

The presented factual data are sufficient to prove that in 1988 in the Azerbaijani town of Sumgait, acts condemned by the international criminal law took place. Pursuant to Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly, on 9 December 1948, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group<sup>44</sup>.

As General Assembly Resolution 96(1) declared, genocide “is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings”<sup>45</sup>.

The International Criminal Tribunal for the former Yugoslavia (“ICTY”) prosecution stated:

in the interests of international justice, genocide should not be diluted or belittled by too broad an interpretation. Indeed, it should be reserved only for acts of exceptional gravity and magnitude which shock the conscience of humankind and which, therefore, justify the appellation of genocide as the “ultimate crime”<sup>46</sup>.

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<sup>44</sup> UN General Assembly 1948, Convention on the Prevention and Punishment of the Crime of Genocide.

<sup>45</sup> UN General Assembly 1946, The Crime of Genocide.

<sup>46</sup> ICTY 1996, 15–16.



The ICC Elements require that the conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction<sup>47</sup>. It must be noted that the contextual element has been criticized by the ICTY Appeals Chamber in Krstic's case<sup>48</sup>.

Thus, from the presented legal analysis and comparison of historical data, it follows that the crimes committed in the city of Sumgait in the Azerbaijani SSR in February 1988, with their *mens rea* and *actus reus*, correspond to the elements of the crime of genocide. Nevertheless, it should be noted that courts and tribunals often exercise caution in classifying acts as genocide, reserving it only for exceptional cases. From the point of view of both the state responsibility and the international criminal responsibility of individuals, the threshold for proving the special intent of the crime of genocide is considered to be the highest.

Meanwhile, the afore-mentioned does not mean that in case the *dolus specialis* of the crime of genocide is not proved, the perpetrators will not be prosecuted for an international crime. As proving the *dolus specialis* of genocide is difficult, therefore it may lead those embarking on genocidal programs to believe that they may act with impunity. By using the lower threshold of crimes against humanity it is possible to challenge this impunity.

According to Article 7 of the Rome Statute of the International Criminal Court, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) murder; (b) extermination; (c) enslavement; (d) deportation or forcible transfer of population; (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) torture; (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) enforced disappearance of persons; (j) the crime of

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<sup>47</sup> International Criminal Court (ICC) 2011, Elements of Crimes.

<sup>48</sup> ICTY 1996, 15-16.

## **The Start and Process of the Sumgait Pogroms of the Armenian Population**

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apartheid; (k) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health<sup>49</sup>.

To conclude, even if the described facts do not prove “beyond a reasonable doubt” the existence of genocidal intent among the perpetrators, the crimes still correspond to at least the elements of crimes against humanity.

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<sup>49</sup> UN General Assembly 1998, Rome Statute of the International Criminal Court.

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## ՍՈՒՄԳԱՅԻԹԻ ՀԱՅ ԲՆԱԿՉՈՒԹՅԱՆ ՋԱՐԴԵՐԻ ՄԵԿՆԱՐԿԸ ԵՎ ԸՆԹԱՑՔԸ

ՇԱՐԱՖՅԱՆ Ն.

### Ամփոփում

**Բանալի բառերը**՝ Սումգայիթ, պոգրոմ, ջարդեր, ցեղասպանություն, մարդկության դեմ հանցագործություն, էթնիկ զտում, հայատյացություն:

Սումգայիթի հայ բնակչության զանգվածային սպանությունների (հայտնի են նաև որպես «Սումգայիթի պոգրոմ») մեկնարկի և ընթացքի հանգամանքների մասին փաստական տվյալների բազմակողմանի վերլուծությունը վկայում է այն մասին, որ ազգային ատելության շարժառիթով կատարված զանգվածային սպանությունները եղել են կազմակերպված և համակարգված: Դրանք եղել են Ադրբեջանում հայ բնակչության դեմ տարվող խտրականության քաղաքականության հետևանք: Պետք է նշել, որ Սումգայիթի ջարդերում առկա են միջազգային հանցագործությունների հանցակազմի տարրերը:

## НАЧАЛО И ПРОЦЕСС ПОГРОМОВ АРМЯНСКОГО НАСЕЛЕНИЯ СУМГАИТА

ШАРАФЯН Н.

### Резюме

**Ключевые слова:** Сумгаит, погромы, массовые убийства, геноцид, преступления против человечества, этническая чистка, арменофобия.

Всесторонний анализ фактических данных об обстоятельствах начала и ходе массовых убийств армянского населения в Сумгаите (известных также как «Сумгаитский погром») свидетельствует о том, что массовые убийства, основанные на национальной ненависти, были организованы и скоординированы. Они были результатом дискриминационной политики в отношении армянского населения, проводимой в Азербайджане. Следует отметить, что в Сумгаитской бойне присутствовали элементы международных преступлений.