

1978 September 22

[TRIANTAFYLLIDES, P., L. LOIZOU, A. LOIZOU, MALACHTOS,
DEMETRIADES, SAVVIDES, JJ.]

IN THE MATTER OF CRIMINAL APPEALS
NOS. 3865 AND 3866

and

IN THE MATTER OF THE DATE OF EXECUTION OF

1. SAMIR MOHAMMED KHADAR,
2. ZAYET HUSSEIN AHMET AL ALI,

Respondents.

Death sentence—Date of execution—Postponement.

This was an application by the Attorney-General of the Republic for a further postponement of the date of execution of the respondents on the ground that the President of the Republic required certain information, which was still forthcoming, before reaching a decision as to the exercise of his prerogative of mercy.

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The date of execution was, at the time of dismissal of the appeal, fixed for August 22, 1978 but it was subsequently postponed by this Court to September 30, 1978 on the application of the respondents.

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There was no objection on the part of the respondents to the postponement and the question of the competence of the Court to deal with the application was neither raised nor argued.

Held, that in the circumstances, this application will be granted and the date of execution will be postponed to November 15, 1978.

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Application granted.

Application.

Application by the Attorney-General of the Republic for the postponement of the date of execution of the death sentence passed on the respondents.

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M. Kyprianou, Senior Counsel of the Republic, for the applicant.

L. Clerides with *A. Papacharalambous*, for the respondents.

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The decision of the Court was delivered by:

5 TRIANTAFYLIDIS P.: At the time when the appeals—
(Criminal Appeals Nos. 3865 and 3866)—of the two respondents
to the present application were dismissed on July 31, 1978,
there was in force an order of this Court that the execution of
the death sentence passed upon them should take place on
August 22, 1978; subsequently, on an application of their
counsel, and without any objection on the part of counsel for
the Republic, this Court, on August 16, 1978, postponed the
10 date of execution to September 30, 1978.

Today we have before us an application by the Attorney-
General of the Republic seeking a further postponement of the
date of execution until November 15, 1978.

15 The grounds on which such application is based are set out
in paragraphs 8 and 9 of an affidavit dated September 20, 1978,
and sworn by Mr. M. Kyprianou, Senior Counsel of the Re-
public, who is appearing on behalf of the Attorney-General;
these paragraphs read as follows:—

20 “ 8. I am instructed that the President of the Republic
before reaching a decision as to the exercise of his prero-
gative of mercy has to investigate further certain aspects of
the case which depend on information which though applied
for is still forthcoming.

25 9. In view of the above the case is not yet complete
for a full consideration by the President of the Republic
and in the circumstances I apply for a postponement of the
date of execution to 15th November, 1978, so that suffi-
cient time is allowed for the information sought for to be
placed before the President of the Republic.”

30 Counsel for the respondents has not objected to the post-
ponement applied for today and he has stated that he adopted
this course after he has consulted in this respect the respondents
and has obtained their consent; and, it is to be noted, too,
that the question of the competence of this Court to grant at
35 this stage in the present case a further postponement of the
date of execution has neither been raised nor argued.

We, therefore, in the circumstances, grant this application
and we postpone the date of execution to November 15, 1978.

Application granted.