



No. 425/2026

Ref. HR/50

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and other International Organizations in Switzerland presents its compliments to the Special Procedures Branch of the United Nations Office of the High Commissioner for Human Rights and has the honour to refer to the communication No. OL LKA 4/2026 dated 07 August 2026 received from the Special Rapporteur on the independence of the judges and lawyers.

The Permanent Mission wishes to transmit herewith the response of the Government of Sri Lanka on the issues raised.

The Permanent Mission of Sri Lanka would appreciate to receive an acknowledgement of the receipt of this Note Verbale.

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Special Procedures Branch of the United Nations Office of the High Commissioner for Human Rights the assurance of its highest consideration.

Geneva, 21 August 2026



Special Procedures Branch
United Nations Office of the High Commissioner for Human Rights
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**RESPONSE OF THE GOVERNMENT OF SRI LANKA TO THE COMMUNICATION
FROM THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND
LAWYERS**

The Government of the Democratic Socialist Republic of Sri Lanka appreciates the opportunity to clarify the constitutional, legislative and policy considerations relevant to the concerns raised by the Special Rapporteur on the Independence of Judges and Lawyers in the communication dated 7th August 2026, pertaining to the proposed amendments relating *inter alia* to the retirement age of judges.

At the outset, the Government reiterates its unequivocal and longstanding commitment to safeguarding and advancing the independence, impartiality and integrity of the Judiciary, the rule of law, separation of powers and the right of every person to a fair and public hearing before a competent, independent and impartial tribunal established by law.

The Government takes note of the concerns raised by the Special Rapporteur, and states that the proposed amendments should be assessed in their proper legal and policy context, in consideration of the applicable constitutional and statutory framework, as well as legitimate objectives aimed at strengthening the efficient administration of justice in Sri Lanka, in line with both domestic and international obligations.

I. CURRENT DRAFT AND STATUS OF THE PROPOSED LEGISLATION

The 22nd Amendment to the Constitution Bill and the Judicature (Amendment) Bill were published in the Gazette on the 7th of August 2026 and were placed on the Order Paper of Parliament on the 18th of August 2026.

The 22nd Amendment to the Constitution Bill proposes the amendment of Articles 107(5) and 137 of the Constitution, while the Judicature (Amendment) Bill proposes the amendment of sections 4 and 6 of the Judicature Act No. 2 of 1978. The two Bills referred to are annexed herewith as *Annexure I* and *Annexure II* respectively.

The 22nd Amendment to the Constitution Bill proposes three substantive amendments, namely:

- (i) raising the retirement ages of Judges of the Supreme Court and Court of Appeal (from 65 years to 67 years and from 63 years to 65 years respectively),
- (ii) specifying that in the case of the Chief Justice the age of retirement shall be either the date on which he/she reaches the age of 67 years or the date on which a period of six years is completed from the date of appointment as Chief Justice (whichever occurs earlier) and
- (iii) increasing the maximum number of Judges of the Court of Appeal from 19 to 24.

The Judicature (Amendment) Bill proposes to raise the retirement age of the Judges of the High Court from 61 years to 63 years and stipulates that the compulsory retirement age of all other Judges and Magistrates shall be 62 years. The said Bill also proposes to increase the maximum number of High Court Judges from 110 to 120.

The aforesaid Bills may be subject to judicial review by the Supreme Court as stipulated in Article 121 of the Constitution, and further steps may be taken to proceed with the Bills only subsequent to the completion of the said judicial review in compliance with the legislative process mandated by the Constitution.

II. RATIONALE AND OBJECTIVE UNDERLYING THE PROPOSED AMENDMENTS

The Government emphasizes that the aforesaid Bills have not been proposed to prolong mandates of specific members of the superior courts, or for the purpose of altering the composition of the judiciary for immediate institutional purposes.

The Government states that the objective of the aforesaid amendments is to strengthen the capacity of the justice system, taking into account the need to address significant case backlogs and delays, improve access to justice, facilitate the regional exercise of appellate jurisdiction and retain judicial expertise and institutional knowledge.

The Government notes that access to justice is a basic principle of the rule of law, and part and parcel of the human rights guaranteed under Articles 2(3) and 14 of the ICCPR. The Government fully accepts that judicial independence is inextricably intertwined with the rights guaranteed under Article 14 of the ICCPR in particular. It is noted that after her visit to Sri Lanka in 2016, the Special Rapporteur on the independence of judges and lawyers has highlighted the need to ensure that Sri Lankans are in a position to reach the courts and to have their cases adjudicated in a timely manner. The SR has also remarked that the number of judges in the country seems insufficient *via a vis* the population and to deal with the variety of legal issues in Sri Lanka.

The existence of an adequately staffed and experienced cadre of judicial officers is an intrinsic component of access to justice. In recognition of the Government's obligations in this regard, one objective of the instant reform process is to allow the Court of Appeal to hold regional sittings, in terms of Article 146 of the Constitution, by increasing the number Judges of the Court of Appeal.

The Judicature (Amendment) Bill also demonstrates the Government's objective of expanding judicial capacity at all levels, not just in the superior courts. The said Bill does not create an executive power to select individual judicial officers for retention. The Government considers these reforms to be conducive towards improving the efficiency and capacity of the justice system in its totality.

While emphasis has been placed on the increase of the retirement age of judges, the said increase must be considered part and parcel of the proposal to improve access to justice and efficiency in the administration of justice, which requires the increase of the number of judicial positions, which creates a corresponding need to ensure and retain an appropriate level of judicial experience and continuity.

The proposed amendments have been undertaken as interconnected elements of a broader judicial reform process, which was formally initiated by way of a **Cabinet Memorandum submitted in July 2026**. Upon consideration of the said Memorandum, the Cabinet of Ministers

instructed the Minister of Justice and National Integration to take necessary steps in relation to the proposed amendments.

In view of the above, the Government states that the proposed reforms are necessitated by legitimate objectives, including timely administration of justice, advancing the people's access to justice and preserving judicial expertise and ensuring institutional continuity, which as observed in your communication are justifiable considerations for increasing judicial retirement age.

III. JUDICIAL INDEPENDENCE AND SECURITY OF TENURE

The Government states that the proposed amendments which include increasing the constitutionally prescribed retirement age do not compromise the security of tenure guaranteed under Article 107 of the Constitution. The increase of the retirement age in order to achieve legitimate objectives is not incompatible with security of tenure which is essential to judicial independence.

While acknowledging that General Comment No. 32 of the Human Rights Committee identifies security of tenure as an important element of judicial independence and defines tenure in relation to the mandatory age of retirement or term of office, there is no prohibition therein preventing the increase of such mandatory age of retirement. Therefore, the Government states that increasing the mandated retirement age in accordance with the proper legal procedure motivated by legitimate objectives is not inconsistent with Sri Lanka's obligations under the ICCPR.

Perusal of other instruments and documents prescribing best practices and standards applicable to judicial independence also supports the view that amending the retirement age of judges in compliance with the legally mandated procedure with legitimate objectives is not inconsistent with judicial independence.

The United Nations Basic Principles on the Independence of the Judiciary provides for *inter alia* guaranteeing judicial independence via guaranteed tenure until a mandatory age of retirement or expiry of the term of office. The said Basic Principles do not require States to refrain from amending such mandatory age of retirement or term of office, nor do they establish a specific numerical age of retirement.

Similarly, the standards and opinions developed by the European Commission for Democracy through Law (Venice Commission) require *inter alia* security of tenure, objective conditions of service, appropriate appointment procedures and safeguards against political interference, but do not prohibit altering the legally stipulated retirement age of judges.

The Latimer House Principles are also not contravened by the proposed amendments, as the same represents an exercise of Parliament's legislative authority under the Constitution, and does not authorize the executive to instruct judges, determine the outcome of cases or interfere with judicial decision making.

The Beijing Statement of Principles also emphasizes that judicial independence is essential to the rule of law and that judges must be able to exercise their functions independently and impartially, which the Government affirms without hesitation. The said principles do not prevent increasing the mandatory retirement age of judges, in compliance with the constitutional framework of the state.

It is observed that no provision of either Bill permits:

- a. The Executive to direct a judge concerning the outcome of a case;
- b. The Executive to remove a judge because of a judicial decision;
- c. The Executive to determine which individual judges would receive a retirement extension;
- d. Political direction of judicial proceedings;
- e. Interference with judicial reasoning or judgments; or
- f. Suspension of constitutional safeguards concerning judicial removal.

The Government emphasizes that the proposed amendments are wholly in accordance with binding and non-binding norms of international law concerning judicial independence, and that the said amendments do not result in the actual or perceived compromise of judicial independence. The Government recognizes that the separation of powers is a fundamental principle of constitutional governance, with judicial independence being a hallmark thereof, and reaffirms its commitment to ensuring the balance of power enshrined in the Constitution.

The Government accepts that changing the retirement age may affect the expected duration of office of judges already serving. However, such an effect does not automatically establish political interference. The decisive considerations are whether the alteration is lawful, generally applicable and consistent with constitutional safeguards. In this case, it is reiterated that the increase in the retirement age is linked to broader reforms in the justice system, as set out above, and are necessitated by legitimate considerations which do not impinge on the independence of judges.

IV. APPLICATION OF THE PROPOSED AMENDMENTS TO SITTING JUDGES

The Government notes that concern has been raised regarding the application of the proposed amendments to sitting judges. The Government states that it has carefully considered the question of applying the proposed retirement age to serving judicial officers. The application of the amendments to sitting judges is intended to ensure institutional continuity and prevent loss of experienced judicial officers at a time when the Government is seeking to expand the number of courts and judicial positions. It is reiterated that the amendments to the retirement age cannot be viewed in isolation and must be viewed in the proper context.

The exclusion of sitting judges would defeat the legitimate objective of increasing the retirement age, being the retention of judicial experience and institutional continuity, as already referred to above. The retention of experienced judicial officers for a defined additional period is intended to complement the appointment of new judges and assist in ensuring that newly appointed judges and newly established courts are able to function

effectively. The Government again emphasizes that the amendments in question are not intended to retain particular judges, but to ensure that the judiciary possesses the requisite capacity and experience to support the proposed expansion of its operations.

As such, the inclusion of sitting judges in the specific context of the proposed amendments is justified, and such inclusion is both reasonable, rational and is in itself a safeguard to prevent actual or perceived interference by the executive or legislative branches in the composition and functioning of the judiciary.

V. DETERMINATION OF CONSTITUTIONALITY OF THE AMENDMENTS UNDER ARTICLE 121 OF THE CONSTITUTION

The Bills under consideration have been proceeded with in compliance with the procedure for enactment of legislation stipulated in the Constitution. The Bills have accordingly been placed before the public, and any concerned citizen is able to challenge its constitutionality in terms of Article 121 of the Constitution, which provides for the procedure to invoke pre-enactment judicial review of legislation.

The Government wishes to underscore that the mechanism provided for in Articles 120, 121 and 123 of the Constitution is in itself an important constitutional safeguard, allowing for detailed consideration of the constitutionality of Bills. Therefore, an opportunity has been provided by the Constitution for any citizen to challenge the Bills, and in terms of Article 121(2) of the Constitution read with the Standing Orders of Parliament, where a petition is filed against a Bill under Article 121, the said Bill may not be proceeded with until the Supreme Court's determination is announced in Parliament. This procedure has currently been invoked, and several petitions have been filed challenging the constitutionality of the Bills.

The Government does not seek, through this response, to prejudge the constitutional determination of the Supreme Court in relation to the Twenty-Second Amendment Bill and the Judicature (Amendment) Bill.

The Government states that it will fully respect any determination made by the Supreme Court.

VI. SAFEGUARDS ENSURING THAT THE PROPOSED AMENDMENTS DO NOT GIVE RISE TO ACTUAL OR PERCEIVED INTERFERENCE

The Government draws attention to the extensive constitutional safeguards already in place to protect judicial independence, which would prevent any actual or perceived interference, which are not in any way altered or diminished by the proposed Bills, being:

- a. Constitutional establishment and recognition of the judiciary in terms of Article 105 of the Constitution.
- b. Constitutionally stipulated procedure for appointment of superior court judges in terms of Article 107 of the Constitution, inclusive of the role played by the Constitutional Council in terms of Chapter VIIA of the Constitution.
- c. Security of tenure of superior court judges in terms of Article 107 of the Constitution which includes a fixed age of retirement and procedure for removal.

- d. Constitutional protection of the salaries of superior court judges in terms of Article 108 of the Constitution, which includes provision preventing reduction of salaries after appointment.
- e. Constitutional recognition of the High Court under Article 111 which stipulates a procedure for appointment and removal, which requires recommendations being made by the Judicial Service Commission.
- f. Role of the Judicial Service Commission established under Chapter XVA of the Constitution.
- g. Protection against interference with judicial functions under Article 111C of the Constitution. The Government considers this to be one of the strongest textual guarantees of judicial independence in the Constitution. Similar provision exists specifically for the Judicial Service Commission under Article 111L of the Constitution.

VII. PUBLIC CONFIDENCE AND APPEARANCE OF INDEPENDENCE

The Government submits that public confidence must be assessed against the legal architecture and actual operation of the proposed legislation. The proposed amendments do not establish a discretionary system under which the Government can choose which judges remain in office.

Instead, the Bills establish an objective and universal statutory/constitutional retirement age. The Government notes that the Supreme Court itself has time and time again in its extensive jurisprudence regarding the assessment of Bills stressed that Bills cannot be challenged based on surmise or conjecture. The same principle applies to the Bills under consideration. The Government notes that the proposed amendments in their proper context do not compromise public confidence in the judiciary and the appearance of independence of the judiciary.

VIII. CONCLUSION

In the above circumstances, the Government of Sri Lanka reiterates its steadfast commitment to judicial independence and the rule of law and respectfully submits that the Twenty-Second Amendment Bill and Judicature (Amendment) Bill must be considered in the context of Sri Lanka's constitutional and legal framework, which provides for extensive safeguards aimed at ensuring judicial independence as noted above.

The Government remains committed to ensuring that the administration of justice is independent, impartial, effective and accessible, and will continue to engage with the Special Rapporteur and the United Nations human rights mechanisms in a spirit of cooperation and constructive engagement.

Annexures:

- i. *Annexure I* – 22nd Amendment to the Constitution Bill
- ii. *Annexure II* – Judicature (Amendment) Bill

**THE GAZETTE OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of August 07, 2026

SUPPLEMENT

(Issued on 07.08.2026)



JUDICATURE (AMENDMENT)

A

BILL

to amend the Judicature Act, No. 2 of 1978

Ordered to be published by the Minister of Justice and National Integration

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 14.50

Postage : Rs. 150.00



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STATEMENT OF LEGAL EFFECT

Clause 2: This clause amends section 4 of the Judicature Act, No. 2 of 1978 (hereinafter referred to as the "principal enactment") and the legal effect of the section as amended is to increase the number of Judges of the High Court to one hundred and twenty Judges.

Clause 3: This clause amends section 6 of the principal enactment and the legal effect of the section as amended is to enhance the retirement age of High Court Judges and all other Judges including Magistrates.

Judicature (Amendment)

L.D. -O. 25/2026

AN ACT TO AMEND THE JUDICATURE ACT, NO. 2 OF 1978

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows: -

1. This Act may be cited as the Judicature (Amendment) Act, No. of 2026. Short title
- 5 2. Section 4 of the Judicature Act, No. 2 of 1978 (hereinafter referred to as the “principal enactment”) is hereby amended, in paragraph (a) thereof, by the substitution for the words “not more than one hundred and ten Judges”, of the words “not more than one hundred and twenty Judges”. Amendment of section 4 of Act, No. 2 of 1978
- 10 3. Section 6 of the principal enactment is hereby amended as follows:- Amendment of section 6 of the principal enactment
- (1) in subsection (3) thereof, by the substitution for the words “sixty-one years” of the words “sixty-three years”; and
- 15 (2) by the repeal of subsection (4) thereof and the substitution therefor of the following subsection:-
- “(4) Notwithstanding anything to the contrary in the Public and Judicial Officers (Retirement) Ordinance (Chapter 355), the age of retirement of all other Judges and Magistrates shall be sixty-two years.”.
- 20
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency

**THE GAZETTE OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of August 07, 2026

SUPPLEMENT

(Issued on 07.08.2026)



**TWENTY SECOND AMENDMENT TO THE
CONSTITUTION**

A

BILL

**to amend the Constitution of the
Democratic Socialist Republic of Sri Lanka**

*Ordered to be published by the Minister of
Justice and National Integration*

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Twenty Second Amendment to the Constitution

L. D.- O 24/2026

AN ACT TO AMEND THE CONSTITUTION OF THE
DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows:-

1. This Act may be cited as the Twenty Second Amendment to the Constitution. Short title
- 5 2. Article 107 of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as the “Constitution”) is hereby amended by the repeal of paragraph (5) thereof and the substitution therefor of the following paragraph:- Amendment
of Article
107 of the
Constitution
of the
Democratic
Socialist
Republic of
Sri Lanka
- 10 “(5) The age of retirement of Judges of the Supreme Court shall be sixty-seven years and of Judges of the Court of Appeal shall be sixty-five years:
- 15 Provided however, the date of retirement of the Chief Justice shall be either the date on which the Chief Justice reaches the age of sixty-seven years or the date on which a period of six years is completed from the date of appointment as the Chief Justice, whichever occurs earlier.”.
- 20 3. Article 137 of the Constitution is hereby amended by the substitution for the words “not more than nineteen other Judges” of the words “not more than twenty four other Judges” . Amendment
of Article
137 of the
Constitution
- 25 4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text
to prevail
in case of
inconsistency

