The Minor Registration & Article 3-bis Legal Defense Protocol: Navigating Circular 59/2025 and Challenging Circular 26185/2025

Executive Legal Guide to the 1-Year Declaration of Will (Art. 4 c. 1-bis), the "Exclusivity Short-Circuit" on Ius Soli Lineages, and Judicial Disapplication Under Articles 4–5 LAC & CJEU Order No. 147/2026

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PROCEDURAL WARNING ALERT — THE TWO INCOMPATIBLE STATUTORY CHANNELS OF LAW 74/2025

Italian Law No. 74/2025 strictly segregates minor descendants into two procedural regimes: automatic original acquisition *jure sanguinis* (retroactive to birth) versus acquisition by benefit of law under Article 4, paragraph 1-bis of Law No. 91/1992 (effective only the day after statutory completion). Applying the wrong channel or relying on ordinary consular emails risks irreversible statutory forfeiture upon the child's first birthday.

1. Statutory Architecture: Original Acquisition vs. Benefit of Law (Art. 4 co. 1-bis)

Under Article 4, paragraph 1-bis of Law No. 91/1992, introduced by Law No. 74/2025 and regulated by Ministry Circular No. 59/2025, minor children born abroad holding a foreign citizenship do not inherit Italian citizenship automatically at birth. Instead, both parents must appear in person before the competent consular or municipal officer to execute a formal Declaration of Will within strictly **365 days of birth**.

Crucially, pursuant to Article 15 of Law No. 91/1992, acquisition by benefit of law takes effect strictly on the day following the completion of all statutory conditions. Conversely, minor children whose lineage is protected by the pre-March 27, 2025 grandfathering clause (or whose parent held exclusively Italian nationality) acquire citizenship originaliter from the exact instant of birth.

2. The "Exclusivity Short-Circuit" of Circular No. 26185/2025 on Ius Soli Lineages

On May 29, 2025, the Ministry of the Interior issued Circular No. 26185, instructing officers to verify that the transmitting ancestor possessed "exclusively" Italian citizenship at the date of the child's birth under Article 3-bis, letter c). This creates an irreconcilable doctrinal contradiction: for ancestors born in *ius soli* countries (USA, Canada, Brazil, Argentina), dual nationality arose automatically at birth.

On July 26, 2026, the United Civil Sections of the Italian Supreme Court (**Cass. SSUU Ruling No. 24045/2026**) confirmed that Article 7 of Law No. 555/1912 was enacted precisely to protect original dual citizens from loss of citizenship. Circular 26185/2025 impermissibly converts this protective status into an insurmountable bar.

3. Status of Minor Children in Ongoing Judicial Proceedings (Article 14 Law 91/1992)

Where an Italian citizenship lawsuit is pending before an Italian District Court, cohabiting minor children acquire Italian citizenship *ope legis* upon the judgment becoming final (*passaggio in giudicato*), pursuant to Article 14 of Law No. 91/1992, completely bypassing the 365-day consular declaration requirement of Circular 59/2025.

4. The 365-Day Protocol (Circular 59/2025) & Procedural Default Safeguards

Ministry of the Interior Circular No. 59 of June 17, 2025, enforces rigorous formal requirements that cannot be bypassed through informal administrative requests:

- **Mandatory In-Person Appearance**: Both parents holding parental responsibility must appear personally before the consular officer or municipal civil status registrar. Postal submissions or unverified online forms are legally void;
- **Split Appearances & Statutory Clock**: If parents appear on different dates, the statutory 365-day deadline is calculated relative to the signature date of the second parent;
- **Pre-Payment of Contribution**: The €250 ministerial fee (Article 9-bis Law 91/1992) must be paid prior to the second parent's execution;
- **Forensic PEC Notice of Default (Art. 48 CAD)**: Under Article 2712 of the Civil Code, ordinary emails carry no return-receipt legal validity against the State. Only a formal Notice served via Certified Electronic Mail (PEC) with digital signature stops the statutory forfeiture clock and documents blameless administrative impediment (*impedimento incolpevole*).

5. The 3-Tier Judicial Defense Pyramid Before Italian District Courts

When consulates refuse registration under Circular 26185/2025 or fail to grant appointments within 365 days, I represent families before the Specialized District Courts (Law 206/2021) across three coordinated levels:

DEFENSE TIER	DOCTRINAL & PROCEDURAL MECHANISM	MAGISTERIAL OUTCOME SOUGHT
Level 1 (Merits)	Incidental Disapplication of Circular 26185/2025 under Articles 4–5 LAC (Law 2248/1865 All. E).	Civil judge bypasses circular as unlawful secondary norm; applies conforming interpretation of Art. 3-bis lett. c.
Level 2 (EU Law)	Stay of Proceedings under Art. 267 TFEU in alignment with Constitutional Court Order No. 147/2026 (Case C-816/26).	Freezes adverse administrative effects pending CJEU ruling on proportionality and EU citizenship rights (Arts. 9 TEU, 20 TFEU).
Level 3 (Constitutional)	Targeted Question of Constitutional Legitimacy on Art. 3-bis lett. c under Arts. 3, 22, 117(1) Cost. (Art. 8 ECHR).	Referral to Constitutional Court; explicitly certified unscrutinized in Point 9.2 of Order No. 147/2026.
Parallel Track	Blameless Impediment (Point 9.1 Ruling 63/2026) & Transmission Paradox.	Exempts applicant from Law 74/2025 cutoffs due to documented consular delay or preexisting family recognition.

This multi-tiered defense ensures that families are never left defenseless against arbitrary consular interpretations or unconstitutional statutory retroactive hurdles.

PROCEDURAL WARNING BOX — CRITICAL TRAPS IN MINOR & ART. 3-BIS CASES

1. Inefficacy of Ordinary Emails: Standard consular emails (Gmail/Outlook) do not interrupt statutory deadlines. Without a forensic PEC Notice under Article 48 CAD, the State Attorney's Office can successfully object to court standing under Art. 100 c.p.c.

2. Deferred Completion: Under Circular 59/2025, both parental declarations and the €250 fee must be fully completed before the child turns one year old.

3. Unlawful Negative Proofs: Do not withdraw an application if a consulate demands impossible negative proof of foreign citizenship; Circular 26185/2025 is an administrative act open to judicial challenge.

6. Atomic 1:1 Documentary Checklist (GEMINI.md Rule 8 — Zero Merged Rows)

1. Minor's Certified Long-Form Birth Certificate Apostilled and accompanied by certified/sworn Italian translation.	**2. Proof of Minor's Foreign Citizenship** Valid foreign passport or government birth citizenship certificate.
3. Transcribed Italian Birth Extract of Italian Parent Issued by the competent Italian Comune certifying parental status.	**4. Identity Document of First Declaring Parent** Valid passport of the declaring Italian citizen parent.
5. Identity Document of Second Declaring Parent Valid passport of the co-holder of parental responsibility.	**6. Ministerial Fee Wire Receipt (€250)** Bank wire receipt under Art. 9-bis Law 91/1992 for the child.
7. Historical Vital Records of Ancestor (Art. 3-bis c) Italian birth record + foreign non-naturalization proof (NARA/USCIS).	**8. Consular Booking Evidence Pre-March 27, 2025** Timestamped screenshots or PEC logs proving blameless impediment.

STRATEGIC FORENSIC CASE ASSESSMENT & ACTION PLAN

Whether your child faces the strict 365-day statutory window of Circular 59/2025 or you need to challenge Circular 26185/2025 before the Italian District Court, I personally review your records and structure your judicial defense.

Consultation Fee: €250 all-in total (taxes included)

100% credited toward my subsequent legal retainer for PEC default notice or judicial court litigation pursuant to D.M. 55/2014.

BOOK STRATEGIC ASSESSMENT →

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