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ACTION EUR-25

INFO  OCT-01  ADP-00  EURE-00  SSO-00  NSCE-00  INRE-00  USIE-00
          CIAE-00  DODE-00  PM-07  INR-10  L-03  NSAE-00  NSC-10
          PA-03  RSC-01  PRS-01  SS-15  IO-13  ACDA-19  OMB-01  RSR-01

NIC-01  /111 W
                   083829
O R 141514Z AUG 73
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 6830
INFO AMEMBASSY BELGRADE
AMEMBASSY BUCHAREST
AMEMBASSY BUDAPEST
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
AMEMBASSY PRAGUE
AMEMBASSY SOFIA
AMEMBASSY WARSAW
USMISSION BERLIN
USMISSION NATO BRUSSELS

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FRG EMBASSIES IN THE RESPECTIVE CAPITALS. THE FRG-
HUNGARIAN TALKS, NOW UNDER WAY IN BONN, ARE EXPECTED TO
RAISE THE SAME PROBLEM. MOST OTHER DIFFICULTIES HAVE
BEEN CLEARED AWAY IN THE BILATERAL TALKS. THE FONOFF
HAS INDICATED IT IS NOW HOPING FOR THE THREE POWERS TO
CLEAR UP THE DIFFICULTIES OVER THE LEGAL ASSISTANCE
ASPECT IN DISCUSSIONS WITH THE USSR. END SUMMARY.

2. THE FRG FONOFF INDICATED TO US INFORMALLY EARLY ON
AUGUST 14 THAT THE FEDERAL GOVERNMENT WOULD LIKE
ASSURANCE FROM THE THREE ALLIES THAT THE TERM "CONSULAR
SERVICES" IN THE BERLIN AGREEMENT (ANNEX IV) COVERS
THE CONCEPT OF LEGAL ASSISTANCE. IT ALSO WISHES TO
KNOW WHETHER THE ALLIES WOULD BE PREPARED TO TAKE THIS
PROBLEM UP WITH THE SOVIETS SHOULD THE EAST EUROPEAN
STATES PERSIST IN THEIR NEGATIVE POSITION. THE FRG
VIEW IS THAT THE SOVIETS ARE BEHIND THE EE STATES' POSITION AND THAT WHAT IS INVOLVED IS AN INTERPRETATION
OF THE BERLIN AGREEMENT THAT ONLY THE SIGNATORIES ARE
COMPETENT TO MAKE. FONOFF POSITION WILL BE PRESENTED
FORMALLY AT BONN GROUP MEETING LATE AUGUST 14. IN
INTEREST OF BRINGING MATTER EXPEDITIOUSLY TO DEPT'S
ATTENTION, HOWEVER, WE ARE REPORTING WHAT WE UNDERSTAND
TO BE PRELIMINARY FRG POSITION.

3. COMMENT. OUR OWN INITIAL READING OF THE NEGOTIATING
RECORD OF THE BERLIN AGREEMENT SUGGESTS THAT THE ALLIED
SIDE PROCEEDED FROM THE BASIS THAT CONSULAR SERVICES
WAS EXPANSIVE ENOUGH TO COVER LEGAL ASSISTANCE. IN
FACT, AT THE JUNE 9 FOUR-POWER ADVISERS' MEETING
(BERLIN 1059, JUNE 10, 1971) KRITSINSKIY SPECIFICALLY
SAID THAT REPRESENTATION IN CIVIL LAW MATTERS WOULD FALL
UNDER THE MEANING OF THE TERM THEN BEING USED IN THE
DISCUSSIONS, I.E., "CONSULAR PROTECTION".

4. THE EMBASSY IS OF THE VIEW THAT THE FRG CAN BE
ASSURED BY THE ALLIES (ON THE ASSUMPTION THE UK AND
FRENCH AGREE) THAT LEGAL ASSISTANCE, IN OUR VIEW, FALLS

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5. AS TO THE QUESTION OF THE ALLIES SEEKING TO CLARIFY
THIS INTERPRETATION WITH THE SOVIETS, THE EMBASSY TENDS
TO TAKE A NEGATIVE POSITION. THE PROBLEM AS IT NOW
STANDS IS ONE BETWEEN THE FRG AND THE EASTERN EUROPEANS,
MINUS THE USSR WHICH HAS POSED NO DIFFICULTIES IN THIS
AREA. WE TEND TO THINK THE FRG SHOULD CONTINUE TO USE
ITS OWN NOT INCONSIDERABLE LEVERAGE IN ITS DISCUSSIONS
WITH THE EES TO IMPRESS UPON THEM THE IMPORTANCE OF
THE LEGAL ASSISTANCE QUESTION FOR THE FEDERAL GOVER-
MENT. IF THE EE'S REMAIN ADAMANT, WE BELIEVE THE FRG
SHOULD TAKE A COOL STANCE, IF NECESSARY POSTPONING
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6. WE SEE LITTLE POINT IN OUR GETTING INVOLVED, NOT LEAST BECAUSE THE SOVIETS CAN ALWAYS SAY THAT THEY ARE LIVING UP TO THE SPIRIT AND LETTER OF THE QA IN THE CONSULAR REPRESENTATION FIELD BUT THEY CANNOT OBLIGE OTHER COUNTRIES TO ACCEPT THE OBLIGATIONS OF AN AGREEMENT REACHED ONLY BY THE FOUR POWERS.

ACTION REQUESTED. FOR THE MOMENT, NONE; WE WILL BE REPORTING FURTHER AFTER THE BONN GROUP MEETING IF THE FRG SIDE HAS ANY ADDITIONAL ARGUMENTS OR POINTS TO MAKE.

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Subject: FRG TALKS WITH BULGARIANS, CZECHS (AND PROBABLY HUNGARIANS) STALLED ON BERLIN ISSUE