

Message Text

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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

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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

C O N F I D E N T I A L SECTION 01 OF 02 BONN 11578

E.O. 11652: GDS

TAGS: PFOV, PFOR, BU, GW, CZ

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

1. SUMMARY. THE FRG HAS BEEN ACTIVELY CONDUCTING TALKS SEPARATELY WITH THE BULGARIANS, CZECHS AND HUNGARIANS IN RECENT WEEKS AIMED AT NORMALIZING RELATIONS AND ESTABLISHING DIPLOMATIC TIES. (SEE SEPTTEL FOR DETAILS.) THE GERMANS HAVE RUN INTO WHAT THEY CONSIDER TO BE SIGNIFICANT DIFFICULTIES WITH THE BULGARIANS AND CZECHS, HOWEVER, ON THE PROBLEM OF WEST BERLIN COURTS' RIGHT TO SEEK ASSISTANCE IN BULGARIA AND CZECHOSLOVAKIA ON BEHALF

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OF WEST BERLIN RESIDENTS THROUGH THE INTERMEDIARY OF THE

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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C O N F I D E N T I A L SECTION 02 OF 02 BONN 11578

UNDER THE MEANING OF THE WORDING OF THE QA.

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 EE'S TO IMPRESS UPON THEM THE IMPORTANCE OF THE LEGAL ASSISTANCE QUESTION FOR THE FEDERAL GOVERNMENT. IF THE EE'S REMAIN ADAMANT, WE BELIEVE THE FRG SHOULD TAKE A COOL STANCE, IF NECESSARY POSTPONING
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VISITS TO BULGARIA BY SCHEEL OR TO CZECHOSLOVAKIA BY BRANDT TO UNDERLINE THE SERIOUSNESS OF THE FRG POSITION.

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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