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## LEGAL OPINION

**Re:** LIBE - European Union asylum and immigration policies - Regional disembarkation platforms and controlled centres - European Council Conclusions of 28th of June 2018.

### I. Introduction

1. By letter dated 4th of September 2018 (attached), Mr Claude MORAES, Chairman of the Committee for Justice and Civil Liberties (LIBE), requested the opinion of the Legal Service *“on the compatibility of the “regional disembarkation platforms” and “controlled centres” as proposed in paragraphs 5 and 6 of the European Council Conclusions of 28th of June 2018, in particular in light of the three scenarios set out by the Commission [...] with international and Union law”*.
2. Taking into account the limited information currently at its disposal, the Legal Service has carried out a first review of the above-mentioned issues without prejudice to possible further in-depth analysis.

### II. Background

3. In its Conclusions of 28th June 2018<sup>1</sup> on migration, security and defence (inter alia), the European Council, in particular, called on *“the Council and the Commission to swiftly explore the concept of regional disembarkation platforms”* for migrants rescued in the context of search and rescue operations.<sup>2</sup> According to those Conclusions, such *“platforms should operate distinguishing individual situations, in full respect of international law and without creating a pull factor”*.<sup>3</sup> The European Council also stated that on *“EU territory, those who are saved, according to international law, should be taken charge of, on the basis of a shared*

<sup>1</sup> EUCO 9/18, CO EUR 9, CONCL 3.

<sup>2</sup> Point 5 of the European Council Conclusions.

<sup>3</sup> Point 5 of the European Council Conclusions.

effort, through the transfer in controlled centres set up in Member States, only on voluntary basis, where rapid and secure processing would allow, with full EU support, to distinguish between irregular migrants, who will be returned, and those in need of international protection, for whom the principle of solidarity would apply”.<sup>4</sup> Moreover, the European Council stressed that all “the measures in the context of those controlled centres, including relocation and resettlement, will be on a voluntary basis, without prejudice to the Dublin reform”.<sup>5</sup>

4. At the outset, the Legal Service points out that, in spite of the exhortation of the European Council, the concepts of “regional disembarkation platforms” and of “controlled centres” still remain insufficiently developed, and therefore they are not entirely clear nor meaningful.
5. On the basis of the European Council Conclusions, with regard to disembarkation platforms, at first sight, it appears that their objective is “to eliminate the incentive”<sup>6</sup> for possible migrants “to embark on perilous journeys”<sup>7</sup> by means of taking in charge those who are saved in “search and rescue operations” in accordance with the new rules to be adopted.
6. Regarding the operational tasks of the regional disembarkation platforms and of the controlled centres, the only information mentioned is that they should distinguish individual situations. Their possible location is not clear either, since it is mentioned that the concept and the clear meaning of those platforms and centres has to be explored “in close cooperation with relevant third countries [...]”,<sup>8</sup> and that platforms “should operate [...] in full respect of international law [...]”<sup>9</sup> without any mention of European Union law. This could lead to the conclusion that such platforms should be located outside the European Union, in third countries, which possibly would be willing to accept them.
7. However, the European Commission, in its note entitled “The legal and practical feasibility of disembarkation options”,<sup>10</sup> which is referred to in the request for a legal opinion presented by the LIBE Chairman has considered, in its first scenario, the possibility that such platforms could be located in the European Union Member States<sup>11</sup> in particular with regard to cases where migrants are rescued in the territorial waters of a Member State.

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<sup>4</sup> Point 6 of the European Council Conclusions.

<sup>5</sup> Point 6 of the European Council Conclusions. The so-called “Dublin reform” refers to the proposal for a regulation (COM(2016) 270 final of 4 May 2016 - 2016/0133(COD)) to replace the Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) - (OJ L 180/31 of 29 June 2013).

<sup>6</sup> Point 5 of the European Council Conclusions.

<sup>7</sup> Point 5 of the European Council Conclusions.

<sup>8</sup> Point 5 of the European Council Conclusions.

<sup>9</sup> Point 5 of the European Council Conclusions.

<sup>10</sup> Follow-up to the informal working meeting of 24 June 2018.

<sup>11</sup> In its note “Proposal for regional cooperative arrangement ensuring predictable disembarkation and subsequent processing of persons rescued-at-sea”, addressed on 27 June 2018 to the Presidents of the European Councils and of the European Commission and to the High Representative of the European Union for Foreign Affairs and Security Policy, the United Nations High Commissioner for Refugees (UNHCR) is also considering that the places of disembarkation should be located in the European Union territory and potentially elsewhere.

8. In such a scenario, it is not easy to make a clear distinction between “*disembarkation platforms*” and “*controlled centres*” as evoked by the European Council in its Conclusions.
9. According to those Conclusions, whereas they refer to controlled centres, it is clear that such centres, which have to be set up in Member States only, would have tasks rather similar to the ones assigned to the platforms, since they would allow “*to distinguish between irregular migrants, who will be returned, , and those in need of international protection [...]*”. In any case, if located within the European Union, both disembarkation platforms and controlled centres will have to respect EU Law, as detailed further below.
10. In some other cases, considered in a second scenario envisaged by the European Commission note, migrants will be rescued in international waters or in territorial waters of a third State. In these cases, the Commission is considering their disembarkation in a platform outside of the European Union. In such cases, migrants could also be disembarked in the European Union territory and in that case they would be entirely subject to EU law.
11. In its note, the Commission finally considers a third scenario in which migrants who already arrived in the European Union territory (“*whether they make an application for international protection or not*”) would be systematically sent to centres situated outside of the European Union without any assessment of their situation.
12. However, this last scenario does not seem to be envisaged in the Conclusions of the European Council. In fact, in those Conclusions, the European Council only mentioned platforms outside of the European Union as a solution to disembark migrants just rescued at sea and not to receive migrants returned from the European Union territory after having been already disembarked therein.

### **III. The legal framework**

#### **III.A. International Law**

13. Since the European Council has proposed its concepts of disembarkation platforms and controlled centres in relation to migrants rescued in the context of search and rescue at sea operations (hereinafter, SAR), the International Law of the Sea will be applicable.
14. The duty to rescue people in distress is a longstanding maritime tradition and is part of customary International Law, which has been codified by the 1982 United Nations Convention on the Law of the Sea (UNCLOS) in its Article 98.<sup>12</sup>
15. The UNCLOS Convention does not embed a general right of law enforcement concerning migration. States only have clear rights of law enforcement against vessels involved in the irregular movement of persons: (a) in their territorial sea; (b) in limited cases in the contiguous zone (where a crime has already occurred in the territorial sea or territory of the coastal State); or (c) in high seas, only where permitted in specific cases.

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<sup>12</sup> See also Article 10 of the International Maritime Organization (IMO) Salvage Convention (1989): “(1) Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea. (2) The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1. (3) The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.”

16. The duty to provide assistance encompasses asylum-seekers and refugees, as it applies in all maritime zones and to every person in distress without discrimination. However, the specific legal framework governing rescue at sea does not apply to interception operations that have no search and rescue component. The obligation to provide assistance is provided for in the 1974 International Convention for the Safety of Life at Sea (SOLAS), entered into force on 25 May 1980. According to Regulation 33(1) of Chapter V of the SOLAS Convention, the master of a ship at sea in the position to assist persons in distress is bound to proceed to their assistance.
17. Moreover, in accordance with the relevant rules of the SOLAS Convention, Governments of States Parties to the Convention are responsible for ensuring that necessary arrangements are made for distress communication and co-ordination in their area of responsibility and for the rescue of persons in distress at sea around its coasts. These arrangements shall include the setting up, operation and maintenance of SAR facilities.<sup>13</sup>
18. Amendments to the SOLAS Regulation in 2004 imposed additional obligations upon the State parties, including an obligation to co-operate and to co-ordinate in order to ensure that ships' masters are allowed to disembark rescued persons at a place of safety, irrespective of the nationality or status of those rescued.<sup>14</sup> These amendments have been reproduced also in the 1979 International Convention on Maritime Search and Rescue (SAR), which entered into force on 25 March 1980.
19. Regarding asylum law, at international level the Convention Relating to the Status of Refugees agreed in Geneva on 28 July 1951 (and entered into force on 22 April 1954) as completed by its 1967 Protocol<sup>15</sup> (hereinafter, the Refugee Convention) is built on Article 14 of the 1948 Universal Declaration of Human Rights, which recognizes the right of persons to seek asylum from persecution in other countries.
20. The Refugee Convention sets out the rights of individuals who are granted asylum and the responsibilities of States that grant asylum but does not provide for any procedural provisions regarding the granting of asylum status. In particular, Article 33 of the Refugee Convention provides for the prohibition of expulsion or return ("*refoulement*"). The European Union is not a Party to the Refugee Convention, but all the Union's Member States are Parties to the Refugee Convention, as well as most of the coastal States of the Mediterranean basin.<sup>16</sup>

### **III.B. EU Law**

21. According to Article 18 of the Charter of Fundamental Rights of the European Union, "[t]he right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with [the TEU and the TFEU]". Article 78(1) TFEU establishes that the European Union common policy on asylum, subsidiary protection and temporary protection must be in accordance with the Refugee Convention. The Court of Justice of the European Union

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<sup>13</sup> SOLAS Convention, Chapter V, Regulation 7.

<sup>14</sup> Amendments to SOLAS Chapter V Regulation 33; IMO, MSC Res. 153 (78), MSC Doc. 78/26.add.1, Annex 5 May 2004.

<sup>15</sup> Protocol signed in New York on 31 January 1967 and entered into force on 4 October 1967.

<sup>16</sup> Only Libya and Lebanon are not Parties to the Refugee Convention.

considers the Refugee Convention as “*the cornerstone of the international legal regime for the protection of refugees*”<sup>17</sup> and interprets EU asylum law in conformity with it.

22. In addition to the Charter of Fundamental Rights of the EU (hereinafter, the Charter)<sup>18</sup> and to the relevant provisions of EU primary law, the European Union legislative framework on asylum<sup>19</sup> has to be taken into account, with particular regard to some specific instruments, which are briefly and in general terms cited below.
23. The Asylum Procedures Directive 2013/32/EU<sup>20</sup> provides for a regular asylum procedure to examine international protection needs, a prioritised procedure<sup>21</sup> to examine protection needs of vulnerable or likely well-founded cases, an accelerated procedure<sup>22</sup> to examine protection needs of likely unfounded or security-related cases and a border procedure<sup>23</sup> to speedily conduct admissibility or examine the merits.
24. This Directive also provides in its Article 6 that accessibility to such procedures is a precondition for ensuring respect for the principle of *non-refoulement*. Its Article 9 embeds the principle that an applicant is entitled to remain in the Member State examining its application until a decision has been made, and a number of other Articles grant some procedural guarantees to applicants.
25. The Asylum Reception Conditions Directive 2013/33/EU<sup>24</sup> provides, in particular, in its Article 7 for the principle of freedom of movement of migrants who have applied for international protection, but also allows Member States to decide on their residence. Its Article 8 sets out the conditions of their possible detention, which is not possible for the sole reason they are asylum seekers.
26. In this context, it is to be recalled also Article 21 of the Qualification Directive,<sup>25</sup> which prescribes the Member States to respect the principle of *non-refoulement*.
27. Finally, it is useful to quote the EU agencies’ founding legislation,<sup>26</sup> since any possible intervention of these agencies in controlled centres or disembarkation platforms will

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<sup>17</sup> See the Judgment of the Court of Justice of 2 March 2010 in Joined Cases C-175/08, C-176/08, C-178/08 and C-179/08, *Aydin Salahadin Abdulla, Kamil Hasan, Ahmed Adem, Hamrin Mosa Rashi and Dier Jamal v Bundesrepublik Deutschland*, EU:C:2010:105, paragraph 52.

<sup>18</sup> See Articles 18 (on right to asylum) and 19 (on protection in the event of removal, expulsion or extradition) of the Charter.

<sup>19</sup> This framework is currently under comprehensive reform but the analysis carried out in this opinion can be based only on the current legal framework.

<sup>20</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) - (OJ L 180/60 of 29 June 2013).

<sup>21</sup> Provided for in Article 31(7) of the Directive.

<sup>22</sup> Provided for in Article 31(8) of the Directive.

<sup>23</sup> Provided for in Article 31(8) and 43 of the Directive.

<sup>24</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection - (OJ L 180/96 of 29 June 2013).

<sup>25</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) - (OJ L 337/9 of 20 December 2011).

<sup>26</sup> Notably Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. In particular, Article 17 of this Regulation lists the hotspot-related tasks that would be entrusted to the Border and Coast Guard Agency, which could at least partially

presumably be regulated by the general provisions embedded in their founding Regulations, together with operational plans agreed with relevant national authorities of volunteer Member States.

#### **IV. Analysis**

28. At this stage, taking into account the undetermined character of the controlled centres and disembarkation platforms and in the absence of any detail on how these centres and platforms, as envisaged by the European Council, would be organised and would operate, the Legal Service can try to assess their compatibility with International Law and European Law only on the basis of the available information, i.e. their location, the refugees they would receive and the purposes they would pursue.
29. The key criterion to take into account seems to be the location of such structures. However, the assessment could be different, depending on whether they are located within the European Union or not.

##### **(1) Controlled centres or disembarkation platforms in the European Union territory**

30. In case such structures (controlled centres or disembarkation platforms, since the possibility to have the latter on the Union's Member States territory has been considered) are envisaged within the European Union territory, it is difficult to identify, in principle, any obstacle to their installation.
31. According to the European Council Conclusions, controlled centres should take charge of "*those who are saved according to international law*", without clearly identifying whether this rescue would have to take place only on the European Union territory, that is to say on the territory of the Union's Member States, or not. However, in both cases it would be, in principle, legally possible to bring rescued migrants to a controlled centre.
32. In the event they are rescued on an EU Member State's territory, prospective applicants for refugee status benefit entirely from EU asylum law and therefore should in particular be granted access to an asylum procedure designed to assess the merits of a demand to receive an international protection, if they intend to submit such a request.
33. In this regard, territorial waters of a Member State have to be considered as being an integral part of the territory of the Union's Member States. This is also confirmed by Article 3 of the Asylum Procedure Directive 2013/32/EU, which expressly provides that the Directive applies in the territory of Member States including in their territorial waters.
34. According to Article 7 of the Asylum Reception Conditions Directive 2013/33/EU, applicants enjoy in principle freedom of movement within the territory of the host Member State. However, restrictions may be imposed without any clearly predefined conditions as long as that does not affect "*the inalienable sphere of private life*" and allows "*sufficient scope for guaranteeing access to all benefits under this Directive*".

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apply to the tasks entrusted with regard to controlled centres - (OJ L 189/93 of 27 June 2014). Another important act is Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010, establishing a European Asylum Support Office (EASO) - (OJ L 132/11 of 29 May 2010).

35. Member States may also allocate asylum seekers a certain place of residence through a decision of a general nature, establishing a link between residence in this particular place and the provision of material reception conditions. Therefore, the setting up of controlled centres, where migrants would be gathered, can in principle be compatible with these provisions, once again without prejudice to further analysis when more detailed rules about these centres become available.<sup>27</sup>
36. The question of possible limitation of movement in such structures could emerge, but at this stage it would be difficult, in the absence of any precise detail on how such limitation would be put in place, to give any legal assessment. However, it can be underlined that detention can be conceived only as an exception provided for by law, and must be subject to the principles of necessity and proportionality. In addition, a measure on possible detention must be based on an individual assessment in the framework of the exhaustive list of grounds for detention, which are currently detailed by Article 8 of Asylum Reception Conditions Directive.
37. According to the European Council Conclusions, controlled centres should provide for “*a rapid and secure processing*” in order to “*distinguish between irregular migrants, who will be returned, and those in need of international protection*”. Such a purpose is compatible with EU asylum law, which provides that migrants are granted access to a procedure during which the merits of their requests to benefit from international protection will be assessed, possibly through expedited procedures.
38. These procedures, as foreseen by Article 31(7) and 31(8) of the Asylum Procedures Directive, provide for the recourse to expedited procedures in particular in cases where the applications are likely to be well founded or on the contrary likely unfounded, thus where there is not necessarily a need for an in-depth and lengthy assessment. Therefore, as long as the conditions foreseen by Article 31 are met, controlled centres could be set up and function in view of the purpose that has been assigned to them by the European Council.
39. If legally possible, for those saved on the territory of the Union’s Member States, it should be *a fortiori* possible to bring those saved outside of the European Union, in particular in international waters, to controlled centres or in disembarkation platforms in the European Union Member States, as long as such platforms provide for the same guarantees.

## **(2) Disembarkation platforms outside the European Union territory**

40. Concerning the disembarkation platforms outside the European Union’s Member States territory and according to the information available at this stage, the crucial element to take into account to assess their conformity with International Law and with EU Law is the place of rescue of migrants who would be brought in these structures.

### *(a) Migrants rescued in the territorial waters of third States*

41. When migrants have been saved in the territorial waters of a third State, they are in principle not under the control and the jurisdiction of Union’s Member States and consequently not under EU asylum law, but instead subject to the law of the responsible third State and to relevant International Conventions, which might have been ratified by this State.

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<sup>27</sup> As an example, Article 7(4) of Asylum Reception Conditions Directive allows asylum seekers to temporarily leave their place of residence and/or the assigned area based on an individual and objective decision. Controlled centres should be put in place in compliance with such obligation.

42. If the European Union and/or the Union's Member States participate in any kind of formal or informal arrangements in order to set up a system allowing for a clear and quick designation of a location to disembark migrants (in particular, by entering in a formal multilateral or bilateral agreement or in financing such a structure, or by contributing to its functioning), these arrangements will have to respect the prescriptions of the relevant provisions of International Law.
43. These arrangements could include rules governing search and rescue at sea operations. However, the existing rules in International Law are not very detailed and, in particular, while they provide for the obligation to allow the disembarkation of migrants in a place of safety, they leave a big margin of manoeuvre for the precise designation of such a place.
44. Thus there are arguments in favour of concluding arrangements with third countries to add more precision in order to designate this place, which could be therefore outside the territory of the Union's Member States (or in this territory, as long as EU asylum law would then apply, as mentioned above). In any case, regarding rules provided for by the Refugee Convention, the principle of *non-refoulement* would forbid the establishment of a disembarkation platform outside of the European Union in a non-safe third country where the concerned persons (migrants and/or asylum seekers) could suffer inhuman and degrading treatments.<sup>28</sup>
45. These platforms should also ensure that migrants can benefit from the guarantees offered by the Refugee Convention and more generally by the European Convention of Human Rights.<sup>29</sup>

*(b) Migrants rescued on high seas*

46. If rescued on high seas, migrants are in principle not covered by EU Law, since they are not on the territory of a Member State. However, a situation that may occur and is worth reviewing from a legal standpoint is the one where they are rescued by a vessel flying the flag of a Member State.
47. Directive 2013/32/EU seems to take into account a strict interpretation of the notion of territory of a Member State. Although States are considered to exercise their jurisdiction within their diplomatic representations, which are considered as part of their territory, Article 3(2) of Directive 2013/32/EU clarifies that this act is not applicable to the potential processing of applications for international protection in such locations. However, the Directive does not provide any indication for migrants on board vessels flying the flag of Member States.
48. According to International Law, States usually exercise their jurisdiction on vessels flying their flag. This jurisdiction can be exerted in making their laws applicable to the activities, relations or status of persons on board, in subjecting persons or things on board to their courts, and in enforcing or compelling compliance or punishing non-compliance with their laws.
49. However, this jurisdiction varies considerably according to the location of the vessel. If it is in territorial waters (and in particular in a port) of a third State, the jurisdiction of this State competes with the flag State's jurisdiction. Even on the high seas, where vessels are in

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<sup>28</sup> It might also happen that migrants rescued at sea and brought to a third country are originating from this third country from which they fled; in such cases, a return operation, without any prior assessment of the risks for the migrants, could be assimilated to a *refoulement*.

<sup>29</sup> However, the circumstance that Member States or EU agencies are involved in a way or in another in the management by the authorities of a third country of migrants who are not falling in the territorial scope of application of EU law does not imply the application of EU asylum law.

principle subject to the exclusive jurisdiction and control of the flag State,<sup>30</sup> there are cases where the port State jurisdiction limits the flag State jurisdiction<sup>31</sup>.

50. Therefore, this limited extension of jurisdiction of States over the vessels flying their flag does not equalise vessels to a part of the territory of a State, where the latter would exercise a fully-fledged jurisdiction.
51. In its judgment in *Hirsi*, the European Court of Human Rights considered that Italy had jurisdiction on a vessel flying its flag and having rescued migrants on high seas. However, this vessel was a warship and therefore migrants on board were *de jure* and *de facto* under the control of Italian authorities.<sup>32</sup> Therefore, in case of a warship it must be concluded that the jurisdiction of the flag State prevails.
52. However, in principle, the jurisdiction of a State is mainly territorial and it is only in exceptional circumstances that a State is considered to exert jurisdiction outside its territory. Consequently, except in the cases of warships, vessels flying the flag of a European Union Member State cannot be considered as a part of the territory of this Member State for the scope and the purpose of Directive 2013/32/EU.
53. Therefore, even assuming that a ship flying the flag of a Union's Member State rescues them, migrants cannot be considered as being *per se* in its territory, where they would benefit from the current EU asylum law. As a consequence, while they could be brought to the territory of the Union's Member States, it is also possible to disembark them outside of the European Union under the same conditions that have been developed under point (a) above.
54. The same reasoning applies *a fortiori* for migrants rescued by a vessel flying the flag of a Member State in the territorial waters of a third State, which might therefore be brought to a platform outside of the European Union.

*(c) Migrants rescued in the territorial waters of a Member State*

55. As mentioned above, migrants rescued in the territorial waters of a Member State of the European Union fall within the scope of European asylum law and should benefit from the guarantees offered by this legislative *acquis*.
56. Therefore, such migrants, after they have been rescued (or *a fortiori* after they have been brought back in the European Union territory), could not be sent to platforms outside of the European Union without being granted access to the EU asylum procedures and without being granted the possibility to wait for the complete examination of their request, where it is presented according to the applicable rules, for international protection in conformity with the procedures set up by EU law. This would be assimilated to a *refoulement* prohibited by the Refugee Convention and infringing upon EU law.
57. These platforms outside the European Union could be considered to be in conformity with the applicable rules only if a specific condition is met: migrants should be able to access to EU

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<sup>30</sup> This rule of customary International Law is codified in Article 92(1) United Nations Convention on the Law of the Sea.

<sup>31</sup> See in particular Article 218 United Nations Convention on the Law of the Sea which provides for a port State jurisdiction in case of high seas pollution.

<sup>32</sup> Judgment of the European Court of Human Rights of 23 February 2012, in Case *Hirsi Jamaa and Others v. Italy*, Application n° 27765/09, see paragraphs 70-82.

asylum procedures (or at least to similar procedures offering equivalent guarantees) under the same conditions as in the EU. Even assuming that this is theoretically possible, it would be legally and practically very difficult to fulfil this condition, let alone for the fact that it would require some important modifications to the current EU asylum legal framework.

## **V. Conclusions**

58. In the light of the foregoing, the Legal Service reaches the following conclusions:

- (i) considering the very limited information currently available and taking into account their undetermined character, as presented by the European Council in its Conclusions of 28th June 2018, and without prejudice to any further details concerning their organisation and operations, controlled centres and/or disembarkation platforms of a similar nature could be, in principle, lawfully established in the European Union territory, that is to say in the territory of the Union's Member States; if and when established, these structures shall fully respect the applicable laws and regulations;
- (ii) in principle, disembarkation platforms, as considered by the European Council in its Conclusions of 28th June 2018, could lawfully be established outside of the European Union, in order to receive migrants rescued outside the territory of the Union's Member States, as long as specific conditions are met; in particular, those migrants should benefit from the guarantees provided for in the 1951 Geneva Convention Relating to the Status of Refugees and in the European Convention of Human Rights.

*[signed]*

Head of Unit

*[signed]*

Visa:

*[signed]*

The Jurisconsult

Annex: Request for a legal opinion dated 4 September 2018