

HOW OLD ARE YOU?

*Age disputes and credibility of unaccompanied
minors in the Danish asylum system*

Christine Brassien
Master thesis 2017
Global Refugee Studies



AALBORG UNIVERSITY
DENMARK

Abstract

Half of the world's refugees are children, and an increasing part of these are unaccompanied minors seeking asylum without a parent or legal guardian. Being a child in the asylum system triggers some specific legal rights and entitlements, which creates a certain incentive for having an asylum case processed as a minor. This has led some young asylum-seeking adults to portray themselves as minors. As a result, age assessment has become an integral part of European asylum systems, including in Denmark. Consequently, unaccompanied minors are increasingly struggling to establish credibility of their asylum claim. Based on a single-case study research design and a qualitative approach, this thesis aims, from a structural perspective, to reach an understanding of the connection between age disputes, age assessment procedures, and credibility in the Danish asylum system.

Credibility has gained significant influence on asylum determination, and can be assessed through various types of evidence, such as documents, asylum statements, or, in some cases, examinations of the body. In asylum cases of unaccompanied minors in Denmark, the main evidence for credibility seems to come from the body, collected through age assessment. The procedure for age assessment in the Danish asylum system consists of medical examinations of physical maturity, skeletal development, and dental development. However, within various academic fields, radiological methods have been debated in terms of scientific validity, and their capability to determine a specific chronological age.

Building on Henrik Zahle's, Audrey Macklin's, and Didier Fassin and Estelle d'Halluin's discussions related to the concept of credibility, the analysis starts by looking at the use of the different types of evidence, and their abilities to establish credibility. Following, with a point of departure in the arguments of Gregor Noll, the analysis examines the scientific authority of the age assessment methods applied in the Danish asylum system, and how these methods are connected to age disputes and credibility. Lastly, focusing on how numerous aspects indirectly can influence asylum case-workers, the analysis examines policy and practice in the Danish asylum procedures for unaccompanied minors.

The main findings of this thesis point to that age disputes tend to decrease unaccompanied minors' overall credibility in asylum determination. Age assessment methods can affect whether credibility is established or if age disputes occur, portraying a structural connection

between the two. Furthermore, radiological age assessment methods lack sufficient scientific authority to determine a specific chronological age, yet the Danish asylum system does not devote any noteworthy attention to the results' margins of error. This thesis concludes that the Danish age assessment procedure is characterised by a paradox between using scientific evidence for assessing age, yet not considering the scientific authority of this evidence. Credibility in asylum is a complex issue, and age should not be the only factor to establish or dismiss this.

Keywords: unaccompanied minors, age, asylum, child, Denmark, age disputes, credibility, age assessment, scientific validity

Acknowledgements

There are certain people without whom, writing this thesis would not have been possible.

First, I would like to express my sincere gratitude to my supervisor Zachary Whyte. Not only for his patience, helpful advice, and relevant literature, but also for putting me under just the right amount of pressure, and for continuously guiding me in the right direction.

Furthermore, I want to thank everyone who has supported me and motivated me at times where inspiration was not abundant. My colleagues and my closest friends, in Copenhagen and elsewhere, for reminding me of what I'm capable of, for moral support, for advice, for sorting my thoughts when I could not make sense of them myself, for the many cups of coffee, and for just being there along the way.

Finally, I want to thank my family for their continuous support and encouragement, and specifically my father, whose strength, courage, and doubtless belief in me has motivated me to keep going.

Table of content

1.	Introduction	9
1.1	Research question	11
1.2	Methodological framework	12
1.2.1	Research design	13
1.2.2	Empirical material	14
1.2.3	Limitations	15
1.3	Structure of the thesis	16
2.	Unaccompanied minors and asylum	17
2.1	International legal frameworks	17
2.2	European legal framework.....	19
2.3	The Danish context.....	20
2.3.1	Danish legal framework	20
2.3.2	Asylum procedures for unaccompanied minors.....	21
2.3.3	The Danish discourse of migration	23
3.	Age assessment in the asylum system.....	24
3.1	Methods for age assessment	26
3.1.1	The Greulich and Pyle Atlas	26
3.1.2	The Demirjian method	27
3.2	Procedures for age assessment in the Danish asylum system	27
3.3	Policy and practice.....	28
3.4	Age assessment methods as a cause for age disputes	29
4.	Credibility.....	30
4.1	Credibility of the asylum seeker	31
4.2	Credibility of unaccompanied minors	32
5.	Age disputes, age assessments and credibility in asylum	33
5.1	Credibility of evidence	33
5.1.1	The burden of proof.....	34
5.1.2	Documentation as evidence.....	35
5.1.3	The narrative as evidence	37
5.1.4	The body as evidence	39
5.2	Credibility of age assessment	42
5.2.1	Scientific accuracy and validity of age assessment methods	43
5.2.2	Skeletal development	44

5.2.3	Dental development.....	45
5.2.4	Medical methods, chronological age, and asylum law.....	46
5.3	Age, credibility, and practice.....	47
5.3.1	Validity or justification?.....	47
5.3.2	Presumptions of demeanour and vulnerability.....	49
5.3.3	Countries of origin and age disputes	50
5.3.4	Child, adult or almost adult?	51
6.	Conclusion.....	53
	References	56

1. Introduction

Recently, European countries have experienced an increase in the number of asylum seekers. In the last few years this has intensified distinctly, prompting rhetoric of a ‘refugee crisis’, and responses have been characterised by border control and restrictions on migration (BBC, 2017). Of the overall numbers of asylum seekers, unaccompanied minors represent an increasing part, and a total of 90.000 applications from minors were registered in Europe in 2015 alone (Eurostat, 2016). An unaccompanied minor is a child who seeks asylum without a parent or legal guardian, defined by the UNHCR as “*a person who is under the age of eighteen years, [...] who is “separated from both parents and is not being cared for by an adult who by law or custom has responsibility to do so.”*” (UNHCR, 1997, p. 5 (3.1)). Unaccompanied minors are part of an overall refugee framework, but have a special position in asylum systems in the sense that, as both ‘asylum seekers’ and ‘children’, they have two political identities and belong to two different frameworks of protection (Vitus & Lidén, 2010, p. 63). There are certain contradictions between these frameworks, as the first is characterised by migration control, and the second by children’s rights (ibid.). While children flee for many of the same reasons as adults, their characteristic as a child makes it difficult to be recognised under the category of asylum seeker, as they are often presumed too immature for actions that could lead to persecution (Bhabha, 2001, p. 288). On the other hand, their ability to cope on their own and travel long distances under perilous conditions, challenges their status as a child (Verdasco, 2017). Their belonging to two categories thus simultaneously excludes them from both, and makes it challenging for unaccompanied minors to be recognised under either of these.

Children are internationally perceived to be more vulnerable and in special need of protection, and several international frameworks emphasise the necessities of shielding children from conflict and violence, and of providing extra care for minors. Being a minor in the asylum system activates some specific legal rights and entitlements, including asylum facilities that are better equipped for safeguarding the wellbeing and safety of children, and in particular, children without family members or guardians. These centres provide more staff, better access to health care services, education, and leisure activities (Hjern, et al., 2011), and are better equipped to meet the special needs of children fleeing conflict or violence. Under the UN Convention on the Rights of the Child (UNCRC), children are also entitled to international protection even if they do not meet the requirements for refugee status, and can have the right to stay in a country until they reach the age of majority. These benefits and special entitlements create a certain

incentive for having an asylum case processed as a minor, and has led some young asylum-seeking adults to portray themselves as minors (Bendixen, 2016a; Kvittingen, 2010).

In addition to ensuring that children are placed in safe environments where they are provided age-appropriate care, a vital component in the protection of unaccompanied minors is safeguarding their security, and shielding them from possible exploitation or abuse from adults. This both includes ensuring minors are not placed in asylum centres with adults, but simultaneously that young adults are not placed in children centres. This separation in placement is based on the age of majority. In cases of doubt about the applicant's age, age assessment procedures can be helpful. With an increase in the number of unaccompanied minors, age assessment has become an integral part of European asylum systems (Eurostat, 2016; EASO, 2014). Methods for age assessment can be non-medical, such as interviews with the minor, documented evidence, or evaluations of physical appearance and behaviour, but can also be medical, consisting of skeletal x-rays, dental x-rays, or physical development assessments (EASO, 2014). It varies among countries which methods are applied and how much influence is ascribed to results. Moreover, it varies how accurate the results of the different methods are. For unaccompanied minors, their age is one of few benefits in a context of displacement and a search for safety and protection, but often they have little actual proof of their age. Around 45% of children worldwide do not have a birth certificate or other official documentation of age (UNICEF, 2016b), and those who have, often find that the authenticity of these documents is questioned. Without any evidence, unaccompanied minors are often met with suspicion about their age, and of whether they are children in need of protection, or young adults seeing an opportunity to exploit asylum systems for their own benefit. Expressed differently, unaccompanied minors increasingly struggle with establishing credibility.

With an increase in the number of asylum seekers, the field of asylum has developed into one of suspicion, migration control, and a struggle to be believed (Fassin & d'Halluin, 2005; Adler-Nissen & Gammeltoft-Hansen, 2010; Kagan, 2015). Credibility has come to play a significant role in the determination of asylum decisions and decisions on residence permits. Doubt about age, referred to as age disputes, indicate that asylum authorities are not convinced the minor is telling the truth about his/her age, and thus implies that the minor has not managed to establish credibility. Similar to the overall trend in Europe, the Danish asylum system has in the last years seen an increase of age disputed cases among unaccompanied minors (Udlændinge-, Integrations- og Boligministeriet, 2016; 2017). Concurrently, there has been an increase in age

assessment requests, and a rise in the number of applicants who were assessed to be eighteen or older (ibid.). The increase in age assessment requests can indicate several things, for instance that there has been an rise in the number of age disputes causal to a significant rise in unaccompanied minors applying for asylum in Denmark. It can also indicate that there has been an increase of young asylum seekers in Denmark declaring a false age, or that suspicion and disbelief have become more dominant in the Danish asylum system, making age disputes more common. Considering that the percentage of age disputed cases increased from 16,3% in 2015 to 78,4% in 2016 (Udlændinge-, Integrations- og Boligministeriet, 2016; 2017), it can at least be assumed that the field of unaccompanied minors in the Danish asylum system is increasingly characterised by doubt.

When age disputes reject the credibility of an unaccompanied minor's proclaimed age, this can further affect the overall credibility of the asylum applicant, and might decrease the applicant's chance of getting asylum. Within the context of a 'refugee crisis', intensified migration control, and asylum restrictions, it is interesting to investigate the purpose and effects of age assessments, and the influence they have on credibility. This thesis aims to explore precisely this matter, and will examine the relation between age assessments procedures, age disputes, and credibility in asylum cases concerning unaccompanied minors in Denmark.

1.1 Research question

Based on the above, this thesis aims to explore the field of age assessment procedures in the Danish asylum system through the following research question:

How do age assessment procedures structure age disputes in the Danish asylum process, and how does the use of these age assessments as evidence affect credibility in asylum determination for unaccompanied minors?

This thesis builds on an interest in understanding the age assessment process and the conditions and consequences that these structures creates, and focuses on a structural level to gain a better understanding of these issues.

To address the research question, the following working questions have been formulated;

- How are unaccompanied minors positioned in the asylum system, and in which situations can age assessment become relevant?

- What are the procedures for age assessment in the Danish asylum system, and how do these structure age disputes?
- What characterises credibility in asylum, and what influence does it have on asylum determinations?
- What forms of evidence are used to assess credibility, and what type of evidence do age assessments produce?
- To what extent do age assessment methods provide credible results?

These questions have been helpful in structuring the thesis and answering the research question. The first two questions will be addressed in the empirical part of the thesis, while the last three questions will be answered in the analysis.

1.2 Methodological framework

This section will present the overall methodological framework, and some considerations that have been taken during the process. First, the terminology and standpoint of this thesis will be described briefly.

Unaccompanied minors are children seeking asylum without a legal guardian, as defined in the introduction. Between various types of literature, different terms are used to describe the same matter, e.g. separated asylum-seeking children, unaccompanied refugee minors or unaccompanied minor asylum seekers. This thesis will use the terms ‘unaccompanied minor’ and ‘minor’ interchangeably, where both terms will refer the definition above, unless otherwise specified.

This thesis is framed within a structural perspective, and neither presumes that children are inherently vulnerable and should be granted asylum regardless of age disputes, nor does it deny the existence of young adults posing as minors to gain access to certain entitlements, and that age assessments help to uncover this. The purpose of this thesis is not to take a moral standpoint, or to suggest a specific approach, but rather to reach an understanding of how age disputes, age assessment, and credibility are connected on a structural level.

1.2.1 Research design

This thesis has a qualitative approach and draws on a single-case study research design, in the sense that it sets out to “*examine the particular*” and involves the “*exploration of something with clear limits or boundaries*” (Lapan, et al., 2012, pp. 244, 245). The particular in this study is the credibility of age disputed unaccompanied minors in the Danish asylum system. This approach allows for more in-depth investigation of a complex phenomenon (Lapan, et al., 2012, p. 243), which is beneficial for this thesis as the field of asylum is indeed complex, and many factors influence credibility and when or why age disputes occur. Considering the context that this study deals with, the examination of the selected case has relied heavily on desk research and document analysis. This is primarily due to two reasons. First, bearing in mind that asylum is a political field, and a sensitive one as such, much of the literature applied in the study has been from official sources (e.g. legislation, policies) and these primarily outline overall directions. Furthermore, the thesis focuses on a structural level and analyses procedures rather than experiences of age assessment. This entails among other things that the personal experiences and opinions from unaccompanied minors regarding the Danish asylum system have not been included, though this certainly could have been interesting and valuable. However, while acknowledging that studies on an individual level are important and meaningful, my interest has been in the structural level, and in exploring how the structures of a system are part of creating certain preconditions for those who have to navigate it.

Arguably, there are two main approaches to examine the case of unaccompanied minors in asylum. One approach focuses on the vulnerability and well-being of these minors, while the other focuses on their resourcefulness and capacity to cope and adapt. Along the same line, certain contradictions occur between the assurance of children’s rights and the exercising of migration control, in the sense that migration control often entails asylum restrictions, while the framework for children’s rights can surpass these restrictions. Explained differently, the field of unaccompanied minors in asylum is essentially characterised by a contradiction between a rights-based approach focusing on vulnerability and well-being, and an approach based in migration control that focuses on maturity and agency. This is also reflected in the literature and information sources this thesis builds upon, as will be explained in the next section, and therefore a continuous methodological consideration has been the attempt to analyse with both approaches in mind. While it might not be ideal to build an analysis on two such contradicting positions, it simultaneously illuminates the complexity and sensitivity of the matter. Throughout the thesis, the attempt has thus been to maintain a nuanced approach to the

examination of the structures of age assessment in the asylum system. Nevertheless, a point of departure has been an interest in whether these procedures deprive asylum-seeking children of the rights they are entitled to, which possibly can affect the views presented, and can pose a risk of a more critical analysis. However, it is anticipated that the scope of various sources for empirical material eliminates this possibility.

1.2.2 Empirical material

The focus of this study has been to reach an understanding of the procedures in place to determine the age of an unaccompanied minor seeking asylum in Denmark, when this has been disputed, and furthermore how these procedures can affect the overall credibility of the minor in the asylum case. The selection of empirical material has been guided by the research question, and the material's ability to discuss and answer this. For the research of asylum procedures and structures of age assessment and age disputes, official documents such as policies and legislation have been necessary to include. This information has been gathered through desk research, and has been based on statements, reports, and statistics from official government websites. In terms of reliability of documents, primary sources have been applied for the legal frameworks for unaccompanied minors (i.e. the UNCRC and the Danish Alien Act) and for the Danish asylum system and asylum procedures (the Danish Immigration Services). To examine the effects of the structures, I presumed that official documents would be insufficient in providing the nuanced information an analysis would require, and this research has therefore also drawn on other actors working with young asylum seekers, such as NGOs and national and international organisations (e.g. Danish Red Cross, Refugees Welcome, UNHCR). This information has similarly been collected through desk research, and builds to a large extent on documents and reports from official websites, and to a smaller extent on articles from other media sources, such as online newspapers. When considering the agendas of the various sources, in the current discourse of a 'refugee crisis', I expected government documents to lean more towards migration control and NGOs to be more focused on protection and children's rights. While the research for this thesis has been insufficient to determine the agenda of official policies, for NGOs it was evident through recommendations and reflections in publications that these emphasised a children's rights-based approach. In terms of newspaper articles, I recognise that these can hold certain political positions, and I have therefore attempted to find several articles/sources that provide the same information. Awareness of the purpose or agenda of various kinds of information has thus also guided the research, towards finding sources that would create a nuanced impression of the field. The analyses of credibility and age assessment

rely respectively on academic use of the concept in relation to evidence, and academic research on age assessment methods and scientific validity. Recognising that this kind of research is limited to the articles' specific contexts, the inclusion of references from different academic fields has been able to highlight some general tendencies and arguments within the field of age assessment and credibility in asylum.

Despite the different purposes of the empirical material, they have been useful to combine in order to form an image of the age assessment field, and to comprehend the challenges connected to age assessment methods, and the consequences their results can cause.

1.2.3 Limitations

For this thesis, certain positions have been more available than others. Based on my interest in the structural level, I have chosen to exclude elements such as interviews with unaccompanied minors or staff at asylum centres as part of this study, where especially the point of view from minors could have provided an interesting insight into the experience of establishing credibility. Additionally, official documents and policies do not necessarily correspond fully with practice, and the exclusion of the case-workers' position has meant that their specific perceptions and impressions have not been considered. Despite that it does not provide primary data, these experiences have been covered through academic research and the use of secondary data. While this has been an intentional consideration, it nonetheless excludes the mentioned positions from influencing the arguments made.

Furthermore, an important limitation of this thesis has been the lack of access to quantitative data, in particular regarding age assessments results. In relation to this, the position of those who provide scientific evidence would have been interesting to explore, and with this intent I approached other actors within this area, i.e. the Danish Department of Forensic Medicine, who conducts the age assessments. Unfortunately, I did not succeed in receiving any responses, though in light of the sensitivity of the matter this was not surprising. Nevertheless, it has consequently not been possible to gain access to specific case results and the age ranges that age assessments have concluded, nor has it been possible to investigate how this particular aspect is connected to the final say on asylum decisions. This information could have been useful in the analysis of age assessment policy and practice, and the lack of it has to a certain extent put limitations on this thesis' ability to draw specific conclusions on certain tendencies in the Danish asylum system.

Lastly, while my interest has been the structural level of age assessment procedures in the Danish asylum system, there has been a limited availability of data on this context. This thesis therefore draws on sources from other countries, e.g. the UK, both for examining general tendencies in European approaches to unaccompanied minors in asylum systems, but moreover for perspective on the Danish case.

1.3 Structure of the thesis

After this introductory chapter, the overall framework concerning unaccompanied minors will be presented in chapter 2. This includes legal frameworks, and an outline of minors in the Danish context, including asylum procedures and a brief contextualisation of the discourse of migration. Chapter 3 will provide an outline of age assessment in the asylum system, and will describe radiological methods for skeletal and dental development assessment. Following, the procedures in the Danish asylum system will be examined in relation to practices in other countries, and in relation to national policy and practice. The final section of this chapter sheds light on how the selected methods for age assessments can partake in creating age disputes, building towards the relevance of credibility. Chapter 4 will provide a general outline of credibility, both in terms of the overall credibility of asylum seekers, and in relation to unaccompanied minors. Where this chapter offers an introduction to the general concept of credibility and its overall position in asylum, the analysis will provide a deeper insight in how different concepts of credibility can be applied to this case.

Together, these chapters will outline the backdrop of the case in question, and will serve as a point of departure for the analysis in chapter 5. The analysis will attempt to establish how age assessment procedures structure age disputes, and how this in turn affects the credibility of unaccompanied minors in the Danish asylum system. This will be done by analysing various aspects that are part of the asylum determination.

Section 5.1 offers an analysis of the relation between evidence and credibility. First, documentary evidence will be examined, building on Audrey Macklin's discussion of documents. Following, the narrative as evidence will be discussed, taking point of departure in Henrik Zahle's understanding of the concept of credibility. Together these explain how the body can be used as a source for evidence, which will be elaborated upon lastly in this section, drawing on Fassin and d'Halluin's discussion of the 'truth from the body'. Building on the

examinations of evidence, section 5.2 will turn the tables, and analyse the credibility of age assessment methods. The point of departure for this section is the scientific validity of medical age assessment methods, building on the arguments of Gregor Noll. This section will focus on the methods applied in the Danish asylum system, and will analyse and discuss the use of skeletal and dental development assessment as scientific methods for assessing chronological age. The last part of this section will analyse the relation between medical age assessment and chronological age. Section 5.3 will connect the previous sections and place the analysis in context of the Danish asylum system, focusing on how certain aspects can influence asylum case-workers in assessing credibility. Moreover, the purpose of age assessment in the Danish asylum system will be discussed, by analysing practice of age and credibility.

Finally, chapter 6 provides a short reflection upon the findings of the analysis, and briefly discusses the Danish approach to age assessment in connection to a broader perspective. Lastly, this chapter provides a conclusion on this thesis.

2. Unaccompanied minors and asylum

Certain rights instruments come at play when people are seeking protection outside their country of origin, and a continuous increase in displaced people has put international obligations and commitments under a certain level of pressure. At the same time, it has created more complex and comprehensive protection instruments, with separate frameworks targeting specific vulnerable groups. These aim to ensure that the specific needs of the particular groups are taken into consideration and safeguarded, also in situations of forced migration. Unaccompanied minors are part of several specific frameworks. Furthermore, a larger discourse of migration and asylum sets the overall conditions for unaccompanied minors' position within systems and procedures. To understand what rights and entitlements are connected to unaccompanied minors in asylum systems, this chapter will present relevant international legal frameworks. Subsequently, to understand what position unaccompanied minors hold in the Danish context, the asylum procedures in Denmark will be presented, followed by a brief outline of what characterises the Danish discourse of migration.

2.1 International legal frameworks

Given their position as 'refugees' and as 'children', it is widely acknowledged internationally that 'refugee children' are particularly vulnerable in conflict, and are especially entitled to

international attention and protection (Bhabha, 2001, p. 283). This is reflected through international human rights conventions, e.g. the 1989 UN Convention on the Rights of the Child (UNCRC). However, while it has long been recognised that children are more vulnerable in conflict, refugee minors separated from their parents did not seem to be included. Instead, they have tended to fall within discourses of migration control and welfare protection, with international debates only recently devoting attention to ensure international protection of unaccompanied refugee minors (Bhabha, 2001, pp. 284-285). Today, a broad framework of international instruments exists to ensure the protection of this particular group. Central among these are the UNCRC, the 1997 Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum provided by the UNHCR, and the European Convention on Human Rights (ECHR) (Joint Committee on Human Rights, 2013, p. 6).

As the most accepted¹ and most elaborate convention on children's rights, the UNCRC provides a framework for human rights and state responsibility for all children within their jurisdiction² (Joint Committee on Human Rights, 2013, p. 6), and its definitions and standards are incorporated in many other human rights frameworks (Joint Committee on Human Rights, 2013). Importantly, its first article determines who is entitled to the rights set forth in the convention, and provides a definition of a child as "*every human being below the age of eighteen unless under the law applicable to the child, majority is attained earlier*" (United Nations, 1989, Convention on the Rights of the Child, Art. 1). This definition is adopted by most international as well as national children's rights instruments. As described in Article 2 of the UNCRC, the convention applies to all children under eighteen in the State's jurisdiction, without discrimination of the child, parent, or legal guardian (United Nations, 1989, Art. 2), and therefore includes refugee children (United Nations, 1989). This is further specified by Article 22 (1), which requires State parties to "*take appropriate measures to ensure that a child who is seeking refugee status [...], whether unaccompanied or accompanied [...], receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention [...]*" (United Nations, 1989, Art. 22(1)). Its widespread support, and almost universal ratification, assigns the UNCRC its significance for the promotion and advocacy for the rights of all children, and ensures that regardless of whether a given State has ratified other conventions, e.g. the 1951 Refugee Convention, children are entitled to protection, and State parties are committed to providing this (UNHCR, 1994, p. 19).

¹ Ratified by all states except the United States of America (OHCHR, 2014).

² Denmark ratified the UNCRC in 1991 (OHCHR, 2014).

Unaccompanied minors are in essence part of two internationally recognised vulnerable groups, as they are children and refugees (Bhabha, 2001, p. 283). Where the UNCRC establishes their rights as children, the UN High Commissioner for Refugees (UNHCR) is essential for refugees crossing borders in search for safety, and is the main international body working with and for the rights of refugees and displaced persons. Its convention, the 1951 UN Convention relating to the Status of Refugees (the Refugee Convention), and its 1967 Protocol waiving the time and geographical limitations, serve as a key legal body for the rights of refugees and displaced persons³. Addressing an increase in the number of unaccompanied minors seeking asylum, in 1997 the UNHCR formulated the Guidelines on Policies and Procedures in dealing with Unaccompanied Children seeking Asylum (the UNHCR Guidelines), which promote the special protection that unaccompanied children need (UNHCR, 1997, p. 4). Building heavily on the UNCRC, the main guiding principle is “*the best interest of the child*” (UNHCR, 1997, p. 1), and encourages effective and systematic protection and assistance in compliance with other internationally given standards (UNHCR, 1997, p. 5).

2.2 European legal framework

As part of the European Union, Denmark is bound by EU legislation. Concerning children’s rights and unaccompanied minors in asylum, much of this legislation, such as the European Convention on Human Rights (ECHR), resembles the abovementioned international frameworks, and will therefore not be further elaborated. In terms of other EU obligations, Denmark is party to the Dublin Regulations and the Schengen Agreement, and is therefore obligated to comply to these. Contrastingly, Denmark has a general opt-out of the EU Treaty on Justice and Home Affairs, which concerns matters of border control, civil law, and asylum and immigration policy (Adler-Nissen & Gammeltoft-Hansen, 2010, p. 140). Relevant for this study, this includes EU directives on asylum policy, i.e. the Reception Conditions Directive, which sets forth some minimum requirements and standards for asylum procedures and conditions. Through the ECHR and the Refugee Convention, Denmark remains obligated to meet an almost equal minimum standard, however, the opt-out does allow the Danish government to implement somewhat stricter policy, or refrain from implementing future measures decided by the EU (Det Udenrigspolitiske Nævn, 2008, pp. 172-174).

³ Denmark ratified the Refugee Convention in 1952, and the 1967 Protocol in 1968 (UNHCR, 2015).

2.3 The Danish context

The majority of unaccompanied minors in Europe arrive from Afghanistan, followed by Syria, Iraq, Eritrea, and Somalia (Connor, 2017). Similarly, the vast majority of unaccompanied minors in Denmark come from Afghanistan, followed by Syria, Eritrea, and Somalia (Danmarks Statistik, 2017). In resemblance to international frameworks, the age of majority in Denmark is eighteen years. Foreign nationals younger than this arriving in Denmark and seeking asylum without their parents or other guardians are considered *unaccompanied minor asylum seekers* (The Danish Immigration Service, 2016). Similar to the overall trend in Europe, Denmark has since 2010 seen an increase in asylum applications from unaccompanied minors. In 2015, out of an unprecedented 21,000 asylum applications registered by Danish authorities, 10%, or 2,144 applications, came from unaccompanied minors. The year after, although the overall number of asylum applications decreased to 6,235, the percentage of unaccompanied minors increased to 19%, equivalent to 1,184 applications (Udlændinge-, Integrations- og Boligministeriet, 2017; Danmarks Statistik, 2016; 2017). So far in 2017, the numbers have been lower, with a total of 2,597 asylum seekers per 30 September, including 404 unaccompanied minors (Udlændinge- og Integrationsministeriet, 2017a).

2.3.1 Danish legal framework

As a party to the Refugee Convention and its 1967 Protocol, Denmark has committed to grant asylum to those fleeing persecution in their country of origin, and has through ratifying the UNCRC accepted its articles as universal for all children. Danish asylum regulations are provided by the Danish Aliens (Consolidation) Act (DAA) (Udlændinge- og Integrationsministeriet, 2013), where section 1, §7 (1) establishes the right to protection under the Refugee Convention, and section 1, §7 (2) provides a principle of non-refoulement (Udlændinge- og Integrationsministeriet, 2013, Article 7). The current Danish asylum legislation is applicable for all minors who have entered Denmark after 1 January 2011 (The Danish Immigration Service, 2016). If asylum is granted, a permit of residence is given for an initial period of four years, after which an extension can be applied for, if the same requirements are still met (The Danish Immigration Service, 2016).

Generally, universal requirements for asylum apply equally to minors as they do to adults. Although, as recommended by the UNHCR Guidelines, it is incorporated into the Danish asylum system that children are especially vulnerable, and therefore their cases should be prioritised and processed quicker, (The Danish Immigration Service, 2016; UNHCR, 1997).

Furthermore, the framework for minors is more generous in the sense that it can provide grounds for protection if the minor is not granted asylum. If a minor is rejected asylum, but does not have family or access to public care in his/her country of origin, and thereby would be left in a vulnerable position, a residence permit can be granted under section 1, §9c (3) (ii) of the DAA (The Danish Immigration Service, 2016; Udlændinge- og Integrationsministeriet, 2013). Similarly, if a minor is determined insufficiently mature for asylum procedures, he/she can be granted a temporary residence permit under section 1, §9c (3) (i) of the DAA (The Danish Immigration Service, 2016; Udlændinge- og Integrationsministeriet, 2013). These permits are given for one year at a time, and can generally not be extended past the age of majority. Unless the minor meets certain requirements and is able to apply for a permanent residence permit, he/she must leave Denmark upon turning eighteen (Udlændinge- og Integrationsministeriet, 2013; The Danish Immigration Service, 2016). In compliance with the UNHCR Guidelines' recommendations considering legal status (UNHCR, 1997, p. 101), unaccompanied minors in Denmark are appointed a personal representative to assist them during the asylum case. These representatives are appointed by the Regional State Administration, based on recommendations from the Danish Red Cross, and cannot be affiliated with official immigration authorities (The Danish Immigration Service, 2016).

2.3.2 Asylum procedures for unaccompanied minors

To seek asylum in Denmark one has to meet in person at a police station or at Sandholm asylum centre, this also applies for unaccompanied minors. During an initial interview, the police will assess whether they believe the person to be a minor, after which he/she will be placed in an accommodation centre for children (Meinel, 2015). As of September 1, 2017, Denmark has seven accommodation centres for unaccompanied minors, out of which there are four specific children centres run by the Danish Red Cross and/or Danish municipalities, and one social institution accommodating unaccompanied minors (Udlændingestyrelsen, 2017). Until recently, minors would stay at these centres until they turned eighteen, but in November 2016 the Danish Immigration Services (DIS) announced that minors at the age of seventeen would be accommodated in separate facilities at ordinary asylum accommodation centres, so the last two children centres are in fact these separate sections at two different centres (Udlændingestyrelsen, 2016).

During the initial asylum request, the police make a quick assessment of whether the person is a minor or not. If believed to be of an age of majority, they will go through ordinary asylum

procedures and will have to qualify for refugee status under §7 of the Danish Aliens Act (DAA), which resembles the conditions of the Refugee Convention (Meinel, 2015). Generally, children under the age of 12 do not go through the asylum procedure and are instead granted a (temporary) residence permit, while children aged 12-15 will only go through standard asylum procedures if they are deemed sufficiently mature. Minors at the age of 15 or above generally do go through ordinary asylum procedures, and will have to qualify for refugee status under the abovementioned paragraph of the DAA (Meinel, 2015; The Danish Immigration Service, 2016; Udlændinge- og Integrationsministeriet, 2013). As will be elaborated later, it is often hard for minors to prove they qualify for protection under the Refugee Convention, as they are seldom believed to be politically or religiously active (Kvittingen, 2010, p. 31). If a minor does not qualify for refugee status, he/she can still be qualified for a temporary permit of residence on account of being a minor, as given under the UNCRC. When there is doubt about the age of the applicant however, this means that it can be unclear whether the minor should go through the asylum procedure, or whether the applicant is in fact a minor and a residence permit can be applicable if asylum is denied. It is in this stage that age assessment of unaccompanied minors becomes relevant in the Danish asylum system. During the asylum and/or age assessment process in Denmark, the applicant is entitled to be treated like a minor and placed in an asylum centre appropriate to his/her proclaimed age (Meinel, 2015).

When registering as an asylum seeker, the police take fingerprints⁴ and check these against the EURODAC database to see if the prints are previously registered in another EU country. Under the Dublin Regulations, this country would then be responsible for the asylum procedure. However, during the ‘refugee crisis’, these regulations have lost some of their enforcement, as many countries stopped checking fingerprints, or disregarded returns to countries like Greece and Hungary, to ease the burden on these first-arrival countries (Bendixen, 2017; Collett, 2015). Importantly, under the Dublin III Regulation applicable as of January 1, 2014, unaccompanied minors are exempted from the return regulations and cannot be sent back to a previous country against their will, regardless of whether their fingerprints were registered (Bendixen, 2017; The European Parliament and the Council of the European Union, 2013). Age can thus affect an asylum case in many ways, highlighting the relevance of age assessment in the asylum system.

⁴ Fingerprints are only taken of children at the age of 14 or older.

2.3.3 The Danish discourse of migration

Unaccompanied minors are part of the Danish asylum system, which in turn is affected by a larger context of migrants and refugees. The Danish field of migration acts and reacts within a broader European discourse, where policies on migrants and refugees are either part of, or responses to this discourse. Recent events have had significant influence on this discourse, and have been part of shaping Danish asylum policies into their current form. A short outline of the current European discourse on refugees, migration, and policy reactions therefore seems appropriate to include, as it contributes to reaching an understanding of the backdrop for age assessments in current Danish asylum policies.

Neither migration nor displacement are new phenomena, though in the latest decades displacement has been concentrated in developing countries mostly. In a sense, Europe has not been confronted with this issue in a resembling way (Collett, 2016; BBC, 2017). However, mass displacement has reached an unprecedented level and as the numbers rise, so does the challenge of finding safety in regions of origin. Refugees are facing more and more restrictions and obstacles on their paths to safety, and as a result many have turned to more dangerous routes and longer journeys, e.g. the sea routes over the Mediterranean or Aegean Sea to European borders. With more than 1,3 million people seeking asylum in Europe in 2015 alone, the mass influx of migrants and refugees has been referred to as a ‘refugee crisis’ (BBC, 2017), and the attention devoted to it has been excessive, even though this still only represents a minority of refugees worldwide. The refugee situation has put European cooperation, i.e. the European Union, under numerous kinds of pressure. Political responses have been of various character, from physically closed borders in Hungary to open borders and a blind-eye to the Dublin Regulations in Germany. Despite efforts for burden-sharing among EU Member States through quota agreements, these have shown to be imperceptibly efficient, and the main burden remains with arrival countries at the outer Schengen borders. EU countries in general show a tendency of moving towards border security and deterrence, rather than humanitarian approaches and willingness to find a dignified solution. When arrivals were at their peak in October 2015, more than 7,000 people reached the northern shores of the Mediterranean every day (European Commission, 2016). Political agreements on an approach to deal with the situation were hard to reach, resulting in political turmoil among European countries and within the European Union. As one of few agreements reached by EU member States, a much debated and critiqued deal was made with Turkey in March 2015, allowing Greece to return irregular migrants to Turkey for assessments processes, and has resulted in a significant decrease in arrival numbers

on this route, down to 47 per day, a development many EU member States seem to approve of (European Commission, 2016; Collett, 2016).

The relatively sudden mass influx of refugees and migrants to Europe has thus prompted various political responses, though it seems that many of them include a degree of deterrence. Among EU Member States that have changed their focus from humanitarianism and emergency rescue and relief to border control and protection of national security and welfare, the Danish government has implemented some of the most restricting changes in their asylum policies. In the last years alone, the Danish government has implemented 64 restrictions in the asylum area, including restrictions regarding family reunification, stricter rules for permanent residence permits, and the possibility to withdraw funds from refugees in an attempt to increase self-payments (Udlændinge- og Integrationsministeriet, 2017b; Bendixen, 2016d). Additionally, Denmark implemented temporary border control at the German-Danish border, most recently prolonged until November 2017 (Rigspolitiet, 2017, p. 151).

This chapter has outlined the overall framework that unaccompanied minors are a part of, and has presented the contemporary discourse of migration that they navigate in. Continuing from the legal frameworks, the following chapter will present how it is determined who is entitled to the rights set forth in these, by examining age assessment methods. Furthermore, the procedures in the Danish asylum system will be examined in relation to practices in other countries, and in relation to national policy and practice.

3. Age assessment in the asylum system

Half of the world's refugees are children, and a continuously growing part are unaccompanied minors (UNICEF, 2016a). Minors seeking asylum are in a more favourable position than adult asylum seekers, and have the right to be treated "*in a manner which takes into account the needs of persons of his or her age*" (United Nations, 1989, p. 10 Article 37(c)). Chronological age has become an important factor in relation to legislation, and various rights and responsibilities within for instance labour, marriage and education are structured around age (Smith & Brownlees, 2011, pp. 2-3). Unaccompanied minors should be shielded from adult environments and housed separately in asylum centres, both for their protection and for enabling additional services for children to ensure their personal wellbeing and development (EASO, 2014, p. 12). It should be noted that the implementation of this differs among nations, and minors will not

get special care everywhere. Nevertheless, where this is incorporated into asylum legislation, age thus becomes important for determining who is to be placed where. However, proving age is not always easy. Asylum regulations for unaccompanied minors are largely based on the assumption that the applicant can provide documentation of his/her exact age (Hjern, et al., 2011), however, in reality this is not the case. Many developed countries still lack efficient systems for birth registrations. Almost half of all children aged 0-5 globally are not registered or given a birth certificate, and many children may therefore arrive in other countries without official documents to prove their identity and/or age (Smith & Brownlees, 2011; EASO, 2014; UNICEF, 2016b). Nevertheless, age remains a vital factor in asylum and can determine whether you are provided or deprived of rights related to being a child. Based in human rights regulations, policies for minor asylum seekers thus most often provide safer and more protected environments, with more possibilities for the future in terms of education or integration activities. Furthermore, minors are entitled to a legal guardian during their asylum case, they have the right not to be detained unless in their best interest, and regulations largely eliminate the threat of being returned to the country of origin; a more generous policy of non-refoulement (Bhabha, 2001; EASO, 2014; Hjern, et al., 2011; Bendixen, 2017). In this sense, there are some benefits for young asylum seekers to have their asylum case treated as a minor rather than as an adult, creating a certain incentive for young adults to claim an age lower than the age of majority and portray themselves as minors.

In addition to the importance of ensuring that young adults do not take advantage of the systems and claim rights they are not entitled to, it is just as important to ensure that children are not deprived of the international protection, safety, and security they have the right to under the UNCRC. For these reasons, age assessment procedures can become relevant in asylum cases where the age of the minor is unclear, or it is believed that the applicant in fact can be over eighteen (EASO, 2014, p. 12). It varies among countries which age assessment methods are applied, this will be elaborated in the following sections. Methods and practices for age assessment of young asylum seekers have been debated for many years, and several studies have indicated that most methods are insufficiently reliable to determine a specific age. Yet, the results of an age determination have immense consequences for the asylum-seeking minor (Hjern, et al., 2011; Smith & Brownlees, 2011). The UNHCR Guidelines recommend that children are given the benefit of the doubt if there is uncertainty about their age (UNHCR, 1997). Contrastingly, unaccompanied minors seeking asylum in Europe are increasingly met

with scepticism of their age if they cannot properly document this, and seem to lose overall credibility rather than receive the benefit of the doubt (EASO, 2014, pp. 86-87).

3.1 Methods for age assessment

When there is doubt about an asylum applicant's age, to the extent of possibly not being a minor as claimed, age assessment procedures can be applied. Article 25 (5) of the EU Asylum Procedures Directive allows States to perform medical tests to determine an unaccompanied minor's age in cases of doubt (The European Parliament and the Council of the European Union, 2013, p. L 180/75). Across developed countries, procedures for age assessment vary from consideration of documents, to radiological methods such as x-rays of the hand/wrist, x-rays of the collarbone, and dental x-rays or examinations, to assessments by social workers or paediatricians, and psychological tests and evaluations (EASO, 2014, p. 23). The Directive allows for medical examinations, but the specific procedures are still mostly defined by national legislation, leading to different approaches in different States. However, the majority of States uses x-rays, and a study by the European Asylum Support Office (EASO) revealed that twenty-three out of thirty-four participating States⁵ included medical methods as part of their age assessment procedures. The three most common approaches are x-rays of the hand/wrist, x-rays of the collarbone, and dental x-rays (EASO, 2014, pp. 23, 34; Noll, 2016, p. 236). Two of these approaches are used in the Danish asylum system, and will therefore be described briefly below.

3.1.1 The Greulich and Pyle Atlas

The most common method for assessing age is by examining the bones and bodily maturity of a child, determining *bone age*, or skeletal development. These examinations consist of x-rays of the left hand and wrist, where the development, size, and shape of the bones are compared to an age-assessment standard (Soudack, et al., 2012). These standards are given in 'The Radiographic Atlas of Skeletal Development of the Hand and Wrist' by Dr. William Walter Greulich and Dr. Sarah Idell Pyle, commonly referred to as the Greulich and Pyle Atlas (hereafter referred to as the G&P atlas) (Dalberg, et al., 2017). The G&P atlas was created with the intention of assessing the skeletal development of children of a known age, rather than assessing age based on skeletal development (Hjern, et al., 2011). Despite that it was first presented in the 1950s and is based on American children born between 1917 and 1942, therefore arguably outdated, it remains one of the most commonly used methods for age

⁵ EU Member States, Norway, Switzerland, Australia, Canada, New Zealand and the United States of America

assessment of unaccompanied minors in asylum (Mohammed, et al., 2015; Dalberg, et al., 2017). The method has been criticised for its uncertain results (Hjern, et al., 2011), which will be further discussed in the analysis.

3.1.2 The Demirjian method

Along with the G&P atlas, the Demirjian method is one of the most commonly used methods for assessing age. This method examines dental development to assess a dental age, and based on the dental age determine a chronological age (Rolseth, et al., 2017). The method is based on a study of 2928 French-Canadian children aged 2-20, with the intention of establishing a method for dental development estimations in relation to chronological age (Rolseth, et al., 2017). Our teeth develop in a relatively chronological order and can give an estimate of how old someone is. This can be useful for different purposes, e.g. to estimate age of victims in criminal cases. In the Demirjian method, the formation stages of seven teeth in the left part of the lower jaw are examined. They are each given a numeric value according to their development, which are then added together to provide a chronological age (Rolseth, et al., 2017, p. 15). As with the G&P atlas, this study was conducted in 1973 and is arguably somewhat outdated. Furthermore, the method has been criticised for its wide variation, and for not taking into consideration that environment, nutrition and ethnic origin can affect dental development (Rolseth, et al., 2017; Smith & Brownlees, 2011, p. 16).

3.2 Procedures for age assessment in the Danish asylum system

Age assessment procedures can have many different purposes, for instance to monitor healthy development of the body, or to avoid or uncover child labour. In the asylum system, age assessment is primarily a tool for determining whether an applicant is below or above eighteen, as this age is the separation point between international protection for children and regular asylum requirements for adults. Where other EU countries, e.g. Sweden and the UK, focus more on in-depth interviews with minors, the Danish procedures for age assessment rely heavily on medical examinations. Under §40c (2) of the DAA, the Danish police and the Danish Immigration Service can require a minor to undergo medical tests for the determination of the minor's age (Udlændinge- og Integrationsministeriet, 2013, p. Article 40c(2)). If the age of the minor has been disputed, he or she is taken for an interview and physical examination at the Department of Forensic Medicine (DFM). This starts with an examination of body hair and

general development of the body. Secondly, at *Rigshospitalet*⁶ an x-ray is made of the left hand to examine the development of the wrist and bones. Finally, x-ray pictures are taken of the jaw, for an examination of the development of teeth and molars (Rasmussen, 2015; Bloch, 2016). In other words, Danish age assessment practices are to a large extent based on the G&P method and the Demirjian method, but they also include an aspect of sexual maturity through the examination of physical development, e.g. body hair. Apart from the interview at the DFM, the main elements of age assessment are based on physical factors, and no other approaches are attempted. The EASO study also reveals that the principle for benefit of the doubt in favour of the minor is not applied in the Danish asylum system, and, along the same line, that a refusal to undergo medical examinations has a negative impact on your asylum case, and tends to result in an automatic assumption of being an adult (EASO, 2014, p. 86; Meinel, 2015).

3.3 Policy and practice

Official Danish policies on unaccompanied minors reflect many aspects of international guidelines and regulations. However, practice does not always comply with officially stated policies, especially in the case of unaccompanied minors. In example, official statements from the Danish Ministry of Immigration and Integration (DMI), regarding age assessment procedures, ensure that only age disputed cases are to go through an age assessment process. Yet, practice shows that all but those who specifically look very young have their age ‘disputed’, and therefore go through an age assessment procedure (Bendixen, 2016a). The majority of unaccompanied minors in Denmark are adolescent boys from Afghanistan, followed by minors from Syria, Eritrea, and Somalia (Danmarks Statistik, 2017). In contrast to Western society children, many of them do not know exactly how old they are, and do not have a birth certificate, passport, or similar reliable documents to prove their age (Noll, 2016). Factors like facial hair or physically hard work in early years can also make teenagers look older than what Danish case-workers might expect for a given age, and can be contributing aspects to a high percentage of age disputed cases. The DMI requested age assessment in 351 of 2,144 cases in 2015, and in 929 of 1,184 cases in 2016, indicating a rise from 16,3% to 78,4% (Udlændinge-, Integrations- og Boligministeriet, 2016; 2017). Applicants were determined to be eighteen or older in respectively 66% and 79% of these cases (Udlændinge-, Integrations- og Boligministeriet, 2016; 2017). In a year, both the percentage of age disputed cases, and the percentage of cases where the age has been set to over eighteen increased significantly. So far

⁶ One of the largest hospitals in Denmark, and the most specialised hospital in Copenhagen.

in 2017⁷, 404 unaccompanied minors have arrived in Denmark (Udlændinge- og Integrationsministeriet, 2017a). In general, around 2/3 of unaccompanied minors whose age is disputed are assessed to be older than eighteen (Bendixen, 2016a).

Another example of differences between policy and practice concerns the residence permit that can be granted to minors who do not qualify for refugee status. Despite its seemingly protective intentions, the DAA §9(c)'s inclusion of the phrase “[...] *without any family network or without any possibility of staying at a reception and care centre and will in fact be placed in an emergency situation upon a return [...]*” (Udlændinge- og Integrationsministeriet, (2013), §9(c)) has allowed for the rejection of residence permits based on the mere existence of reception centres, or distant relatives who are presumed to be able to care for the minor, without considering the quality of this care, and cannot be said to have had an actual protection function. Residence permits under this paragraph were only granted in five cases in both 2016 and 2015, and in only two cases in 2014 (Udlændinge-, Integrations- og Boligministeriet, 2017; 2016), meaning that the majority of unaccompanied minors who had their asylum cases rejected were sent out of Denmark. This particularly applies to minors from Afghanistan, despite that the security and conditions of the reception centres, as well as the overall security situation in the country, have been heavily debated (Lemberg-Pedersen, 2015, pp. 15-17).

3.4 Age assessment methods as a cause for age disputes

It can be interesting to examine age disputes in other European countries to examine the particularities of the practice in Denmark. In example, the UK received 3,175 applications for asylum from unaccompanied minors in 2016 (British Refugee Council, 2017b). Similar to Denmark, the majority of these minors came from Afghanistan, followed by Iran, Iraq, and Eritrea, and in total 89% claimed to be 14 years or older (British Refugee Council, 2017b). Contrary to the Danish 79%, British asylum authorities only disputed the claimed age in 28% of cases (British Refugee Council, 2017b). Despite much resemblance in countries of origin, the number of age disputed cases is significantly different between Denmark and the UK, which perhaps can be explained by the different asylum procedures and methods for age assessment. Shifting away from previous radiological methods, the age of unaccompanied minors seeking asylum in the UK is primarily assessed through interviews with two social workers (EASO, 2014; Smith & Brownlees, 2011). Unless physical features or behaviour “*very strongly suggests*

⁷ Per September 30

that they are significantly over 18 years of age”, minors are granted the benefit of the doubt and seen as children (Joint Committee on Human Rights, 2013, p. 26). Not only points the wording of this to a difference from the Danish approach, where medical age assessment seems to be applicable in the slightest of doubt, two immigration officers have to conclude that there is reason to believe the applicant is not slightly, but significantly older than eighteen (Joint Committee on Human Rights, 2013, pp. 26-27). There are many factors that can contribute to the perception of an older age, including physical appearance or demeanour, which will be elaborated in the analysis. Considering that the majority of unaccompanied minors in Europe originate from non-Western countries with different cultures and living conditions, if physical aspects get to dominate the perception of age, as is the case in Denmark, age disputes will occur on more occasions than if other aspects were assessed equally or more dominantly, as applied in the UK, where interviews with the minor dominate asylum and age determination. Additionally, the Danish asylum system does not provide a possibility for appeal, or any other form for official complaint of age determinations (EASO, 2014), while applicants in the UK can take the decision for juridical review in court, should they disagree with the age assessment results (Joint Committee on Human Rights, 2013).

Interestingly, while the general approval rate in the UK was only 34% of initial asylum decisions in 2016 (Home Office, 2017) compared to the much higher 72% in Denmark (Home Office, 2015; Udlændinge-, Integrations- og Boligministeriet, 2017), the percentage of age disputes was significantly lower. This points to how methods and procedures for age assessment thus can affect whether age disputes occur, and illustrates why it can be interesting to look at the particularities of the Danish case. Moreover, it points to how credibility, or lack thereof, is part of whether age assessments are considered necessary. The following chapter will elaborate on this, and examine credibility in asylum.

4. Credibility

Credibility means the capability of being believed or seen as reliable and trustworthy, and is an important yet challenging part of refugee law and asylum determination (The Concise Oxford Dictionary in UNHCR & ERF, 2013, p. 13; UNHCR & ERF, 2013, p. 27). In order to be granted asylum, an asylum seeker has to be able to show grounds for a “*well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion*” (UNHCR, 2010, Article 1a (2)), or that his/her life will be in serious danger

if returned to the country of origin. In this thesis, the concept of ‘credibility’ will refer to the asylum process and the gathering of information relevant to the applicant’s case. The main challenge in asylum cases is that, regardless of asylum interviews, country of origin reports, and today’s high accessibility of information, it is never possible to be one hundred percent certain whether someone is telling the truth. A credibility assessment in asylum cases will thus in general have to rely on whether the information provided *can* be believed or accepted (UNHCR & ERF, 2013, p. 27). Again, it varies among countries as well as policies what is considered trustworthy or not. As part of an attempt to homogenise practices in EU Member States, the EU Common European Asylum System (CEAS) has produced a training manual; The European Asylum Curriculum (EAC). This training material emphasises credibility assessment as a means to establish facts relevant for the determination of refugee status, in terms of what information should be considered, as opposed to what information seems accurate (UNHCR & ERF, 2013, p. 28). Despite concerns expressed by the UNHCR, credibility has a strong influence on decisions by case-workers in EU member states. A study from 2010 showed that (lack of) credibility was the grounds for 75% of negative decisions in Germany, and for the majority of negative outcomes in France (UNHCR & ERF, 2013, p. 29), showing that a significant part of an asylum decision is based on whether the information at hand seems believable or not.

4.1 Credibility of the asylum seeker

Refugees became an official part of politics through the Refugee Convention, with the violence of World War II fresh in mind. Ever since, the topic of asylum has been characterised by a tension (although varying in intensity) between human rights ideology and the asylum seeker as a person in need of international protection on one side, and aspects of national welfare and the asylum seeker as an irregular migrant seeking better economic opportunities on the other (Fassin & d'Halluin, 2005). From originating as a matter of trust that the asylum seeker was telling the truth, asylum has in the last decades been characterised by suspicion of motives. Although it is not a legal requirement for refugee status, this change towards distrust and disbelief has ascribed substantial importance to the credibility of an asylum seeker, where the asylum seeker carries the responsibility to prove his/her ‘genuineness’ as a victim of persecution, and not an irregular migrant seeking to exploit the asylum system for personal gains (Fassin & d'Halluin, 2005; Kagan, 2015). Establishing this genuineness, and thereby credibility, can be challenging in several ways. This will be further elaborated in the analysis by applying different understandings of the concept of credibility. Because of the challenges

for absolute certainty in asylum cases, the UNHCR has recommended that asylum seekers are given the benefit of the doubt, but in a context of delegitimization and suspicion, one by one asylum seekers struggle to confirm their credibility (Fassin & d'Halluin, 2005; Kagan, 2015).

4.2 Credibility of unaccompanied minors

Unaccompanied minors experience a unique struggle with credibility in the sense that they are generally met with scepticism about their need for protection, and create confusion through their position between two frameworks, as both children and asylum seekers (Kvittingen, 2010, pp. 8-10). Where countries like France and Spain have ways of integrating separated children through specially appointed courts, approaches in Denmark and other countries like the UK, additionally place them under the framework of asylum through categories of 'unaccompanied minor asylum seeker' (DK) and 'unaccompanied asylum seeking children' (UK), immediately ascribing them a different status (Kvittingen, 2010). The discourse for children differs significantly from the discourse of 'asylum seeker', both in terms of legal rights as explained earlier, but also in the way the categories are perceived. Asylum regulations focus on the individual's status as an alien and tend to lean towards exclusion, while the understanding of being a child, and particularly a child without parents, triggers a desire to protect these vulnerable and innocent individuals, portraying a completely different picture (Kvittingen, 2010; Vitus & Lidén, 2010). Both these categories are applicable to unaccompanied minors. It differs among asylum systems which one weighs heavier, but a main focus on the asylum seeker status can affect whether authorities believe the status as a child. In contrast to e.g. Norway, where an asylum-seeking child is identified equally as both, the Danish asylum system has for many years first and foremost let the category of asylum seeker dominate the field of unaccompanied minors, activating discourses of border control and security over those of humanitarian protection and vulnerability of the child (Vitus & Lidén, 2010). Contrary to children that are part of a parent's or legal guardian's asylum claim, unaccompanied minors have nobody to verify or emphasise their status as a child. If, additionally, the age of the minor is unclear or doubted, due to a lack of identity documents or an older appearance than what is expected for the claimed age, the framework of asylum seeker will further increase its dominance. With this position as the point of departure, and the increasing scepticism towards asylum seekers in general, unaccompanied minors seeking asylum in Denmark not only have to struggle with the credibility of their grounds for seeking international protection, but also their credibility as a minor.

The following chapter will present an analysis of how the structures concerning age disputes, including the selected age assessment methods, in the Danish asylum system can affect the general credibility of an unaccompanied minor seeking asylum, and moreover, how the validity of the age assessment methods themselves in turn can affect the occurrence of age disputes.

5. Age disputes, age assessments and credibility in asylum

To understand the relation between age disputes, age assessment, and credibility in the Danish asylum system, certain aspects will be analysed with the aim of reaching a deeper insight of what influences asylum decisions. First, section 5.1 will analyse the credibility of the asylum seeker through the expanding use of and request for evidence in asylum cases. This will shed light on how different types of evidence can establish trustworthiness, and how age assessments can be a part of this. Secondly, section 5.2 will analyse the credibility of the age assessment procedure itself, taking point of departure in the scientific validity of the methods. The section will focus on the methods applied in the Danish asylum system, and aims to illuminate the frailty of medical methods for determining age. Finally, building on the first two sections of the analysis, section 5.3 will examine the purpose of age assessments in the Danish asylum system, by looking at certain aspects that can influencing asylum case-workers, and thereby form the practice of asylum determinations.

5.1 Credibility of evidence

Credibility has a central position in asylum systems (Fassin & d'Halluin, 2005; Kagan, 2015; UNHCR & ERF, 2013). The Refugee Convention sets forth that in order to qualify for refugee status, a “*well-founded fear of being persecuted [...]*” must exist (UNHCR, 2017a). With suspicion rather than trust characterising the field of asylum, it becomes more and more challenging for refugees to prove that their fear for persecution is in fact well-founded, and that they are not merely seeking better living conditions and access to economic opportunities. Typically, asylum seekers do not carry evidence of the violence they flee, and individual narratives are their main way to present their case. In today’s society where information is more available than ever, “*individual credibility assessment determines the fates of more asylum applications than do the technical legal criteria*” (Kagan, 2015, p. 124). Subjectivity among case-workers, presumptions for victim behaviour, and inconsistency in asylum decisions are further complicating the struggle for international protection (Kagan, 2015; Fassin & d'Halluin, 2005). This can be connected to images of genuine victims, persecution, and violence (Kagan,

2015), which may affect whether the asylum seeker's fear is considered legitimate and acceptable, or in other words, whether the claim for asylum is credible. As mentioned, one of the main challenges in asylum procedures is the inability to reach a fully truthful and complete understanding of the facts. This is due to many reasons, yet it is the asylum seeker who must convince the case-worker of his/her individual situation, and prove qualification for refugee status. Due to cultural differences, language barriers, and the cultural distance of social or gender norms, an asylum decision-maker will in a large majority of cases lack the specialist insight and analytical knowledge necessary to fully understand whether the claim presented puts the applicant in need of international protection (UNHCR & ERF, 2013; Kagan, 2015). It is in this context that evidence has gained an influential position in asylum cases, not by presenting an absolute truth, but through its ability to validate information. Furthermore, it is in the interaction between different types of evidence that the foundation for trust is established, and where credibility is accepted or rejected.

The following subsections will attempt to analyse the connection between evidence and credibility by looking at three different types of proof. Building from documentation to the narrative and thereafter the body as sources for proof, it will be examined when and why these are desired, with the aim to create a better foundation for understanding the use of evidence from age assessment in asylum determinations.

5.1.1 The burden of proof

Like for any other area of legislation, evidence plays an important part in refugee law. States' asylum obligations are bound to certain criteria given in international frameworks, and evidence can clarify whether these criteria are met or not. In contrast to other areas of law, e.g. criminal cases, evidence for a well-founded fear for persecution rarely exists. Refugee law must rely on a standard of proof that represents a certain level of probability rather than absolute certainty (Zahle, 2005), which is where credibility becomes an important aspect for assessing whether something is believed to be probable. However, this has not hindered evidence from becoming desired in asylum cases, nor has it lightened the pressure for using evidence as justification for an asylum decision. This 'burden of proof' is described by Henrik Zahle as a "*burden of producing evidence*", which can rest both with the applicant and with authorities (Zahle, 2005, p. 23). Asylum decisions are based on the situation in the country of origin and the individual's position within this situation, assessed through the information available to case-workers. Presumptions and bias cannot be excluded from this, neither can official information from

authorities. To understand the connection between the burden of proof and credibility it is useful to look at what kind of evidence is produced. Where the asylum seeker is responsible for producing evidence on the grounds for asylum through a statement, the case-worker is responsible for assessing the asylum seeker's situation in relation to the overall conditions in the country of origin. For this it is common to refer to information provided by national authorities or NGOs, e.g. country of origin information (COI) reports or guidelines for asylum decisions. This reflects a responsibility to provide evidence, or a "*burden of information*", that does not rest on the asylum seeker (Zahle, 2005, p. 19).

5.1.2 Documentation as evidence

The burden of proof or information is very much related to documentation. As explained, credibility plays an important part in asylum decisions, but perhaps even more influential is evidence that can confirm, validate, or justify the credibility assessment, and thereby the asylum decision. Documents hold a strong position in this regard (Macklin, 1999), and are closely connected to the narrative. Nevertheless, the use of documents in asylum cases is not uncomplicated, nor do they automatically establish credibility. If considering the burden of proof as evidence provided by the asylum applicant, this can consist of documents that verify religion, political opinion, or other risks of persecution, or identity papers like passports, birth certificates, or marriage certificates. Asylum seekers are typically not in possession of these types of evidence (Kagan, 2015), but should they have them, these can most probably strengthen a claim. In the case of unaccompanied minors, the most relevant documents they can provide are identity papers showing a date of birth, such as a passport or a birth certificate. It has been explained that developing countries often lack sufficient systems to register births or issue birth certificates (Kvittingen, 2010; Noll, 2016). Consequently, minors are frequently unable to provide documents as evidence. Furthermore, where some asylum applicants are rejected because they are unable to present documentation to validate their claim, others find that the documents they do provide are in themselves rejected. Interestingly, this derives from contradictions among asylum statements, where some might say the requested documents are unobtainable, while others with similar claims are able to present them. The possibility that these documents are false cannot be ignored, however the reasoning behind obtaining false documents might counteract its intended purpose. Audrey Macklin describes how the pressure for presenting evidence to validate an asylum claim indirectly decreases the actual validity of the evidence presented (Macklin, 1999). As knowledge spreads among refugees that documents are helpful and can strengthen the asylum case in their favour, more people will try to obtain

these, and an increase of falsified documentation occurs. Consequently, asylum authorities, e.g. the Danish Immigration Services, become more suspicious of documents and have them tested for authenticity, where unsurprisingly, many of them will turn out to be false (Macklin, 1999, p. 136). Continuing to navigate the asylum system, refugees will seek to purchase genuine documents instead, generating a circulation of evidence that previously has been argued impossible to obtain. This in turn calls into question the authenticity of documentation all together (ibid.), ultimately raising the level of doubt both for those with documents and for those without. The influential position of documents thus creates a situation where so many documents are falsified that they instead become reasons for suspicion, ultimately causing a loss of validity. Building on this argument, asylum case-workers, being based in Western countries with well-developed civil registration systems, are likely to assume that every child has a birth certificate. At the same time, they are objectively aware that for children seeking asylum, this is most often not the case. When an unaccompanied minor applies for asylum, he/she is requested to present a passport or birth certificate confirming that he/she is younger than eighteen, but considering how rare these documents are, case-workers might subconsciously expect that this will not be provided. Should the minor however present a document confirming his/her age, it is not unlikely that this then will be suspected to be forged and that the evidence nevertheless will be doubted. In a sense, whether able to confirm an age or not, the likelihood that there will be doubt around the given information is high, pointing to the use of age assessment methods as a way to clarify these uncertainties.

In the same way forged documents are problematic for credibility assessments, documentation from authorities can create challenges in establishing credibility. While this kind of documentation has a smaller chance of being falsified, these reports are often either inadequate or too general, and are unable to provide information on a level detailed enough to verify a specific asylum claim (Macklin, 1999, p. 137). Moreover, the extent of human rights violations, the span of a crisis, or the severity of violence or persecution is often not fully acknowledged until they escalate significantly or have been ongoing for a substantial amount of time (Kagan, 2015), and official documentation or guidelines for asylum might not be updated on all situations at all times. Reports or updates by other actors, e.g. the UN or NGOs, can be helpful in this sense, but these often have their own agenda and might not be granted much influence on asylum decisions. COI is useful to establish whether the asylum statement concurs with the assessed risks for persecution, yet it should not dismiss the plausibility of an asylum statement if the information does not comply with the COI reports (Gibb & Good, 2013; Macklin, 1999;

Home Office, 2015). Overall, general reports can provide a lot of useful information on the general conditions in an area or country, but they will never be able to fully assess or understand how it is to experience these conditions in person. Regarding unaccompanied minors, it is often perceived that children are not mature enough to, for instance, be part of political movements to the extent that they will face persecution (Kvittingen, 2010), and it cannot be excluded that official documents lack sufficient information about the conditions for minors in countries of origin.

The challenges related to both these types of evidence also point to the general suspicion characterising the field of asylum, as it seems that there is doubt about the genuineness of the applicant in every step of the asylum process. Following Macklin's argument, the credibility of asylum seekers is questioned if they cannot provide evidence that they risk persecution in their country of origin, but due to a general suspicion of this kind of evidence, if they can provide this it is questioned all the same (Macklin, 1999). Overall, this implies that in the vast majority of asylum cases, credibility is not a precondition that can be lost during the processing of your case, but something the asylum seeker does not have and must struggle to establish. Furthermore, despite appreciation of documents as evidence in asylum cases, the use of it is arguably problematic. Not only is documentation unable to fully verify an applicant's claim because there will always be a possibility that a claim is plausible, it is furthermore unable to validate itself because of the ever-remaining uncertainties about its authenticity. Contradiction between the burden of proof and the burden of information creates a level of doubt, corroboration evokes suspicion and thereby also a level of doubt. This indicates that the use of documents from asylum seekers as evidence in reality has little to no value for credibility assessment, and implies that credibility should not be assessed based on documentation, or lack thereof, alone.

As documentation is insufficient to determine the plausibility of an asylum claim, case-workers need to base their decision on different types of evidence, the most obtainable being the asylum seeker's statement, the narrative. The following section will elaborate upon the narrative as evidence, and analyse how this source of proof can contribute to establish credibility.

5.1.3 The narrative as evidence

The narrative is closely tied to documentation in terms of establishing credibility, as one can confirm the other. However, as explained in the previous section, not all asylum seekers are

able to provide documented justification for their asylum claim, and the testimony thus becomes their main influence on their asylum case. To analyse the narrative as evidence in the asylum system, Henrik Zahle's use of the concept of credibility as a testimony will be applied (Zahle, 2005). Zahle describes credibility as characterising "*a statement that is an oral or written text [...] from a person, i.e. from the applicant as a 'witness'*" (Zahle, 2005, p. 15). He further considers the asylum statement as part of a communication, which in turn indicates recognition (ibid.). Explained differently, recognition of the asylum applicant means acknowledging that he/she is part of the asylum case through the provided statement of his/her grounds for asylum, underlining that the trustworthiness of the statement, not the person, is what should be assessed. This points back to probability as grounds for credibility. Zahle continues by explaining that credibility is a matter of whether there is trust between those who communicate, in this situation the case-worker and the asylum seeker, yet that there are certain factors that can influence the trust between the actors, such as culture or tradition, previous experience, or even subconscious impressions (Zahle, 2005, pp. 15-16). This individualises credibility and can help explain the inconsistency in the asylum system, exemplified by how different case-workers can come to different conclusions in the same case (Macklin, 1999, p. 139). Simultaneously, it reveals the challenging and powerful position of credibility in asylum determinations, as it is of much greater influence whether the claim presented is *believed* rather than if it is actually real.

Building on Zahle's argument, the trust that needs to be established in the case of unaccompanied minors concerns both their statement as an asylum seeker, and their statement as a minor. In a sense, there are two levels of credibility that need to be built through one asylum statement. Seeing credibility as "*a concept signalling a position in a general debate in the law of evidence*" (Zahle, 2005, p. 16) helps understanding the position of an asylum statement as evidence. Presenting this evidence is a sensitive matter, and applicants must tread carefully to avoid damaging their credibility. Contradictions between an initial and a later statement can lead case-workers to suspect the testimony is made up, while repeating the exact same statement several times may give the same impression (Zahle, 2005, p. 16). However, different parts of the journey may be remembered more vividly at different times, and traumatic experiences can affect the ability to remember details or recall events (Souter, 2011, p. 50). Contradictions therefore do not necessarily mean that a statement is not true, but they can affect the strength of the statement's position as evidence, and consequently the applicant's credibility (Zahle, 2005). In relation to the narratives of minors this is a relevant aspect. Children might be less able to put their fears into words, they might provide less detailed descriptions, or tell their

experience in different ways at separate times, and thereby be unable to show a well-founded fear for persecution (Home Office, 2016, pp. 38-40). On the other hand, they may give descriptions of experiences that might contrast from what case-workers deem believable as child behaviour, and thereby be unable to validate their status as a child (Kvittingen, 2010, p. 31). In both cases this indicates that their position is weakened, and that the narrative as a form for evidence is unable to establish credibility. To improve the quality of interviews with children, the UNHCR Guidelines underline that interviews with a minor should be conducted in an age-appropriate manner (UNHCR, 1997). In the case of age-disputes, asylum authorities have assumed that there is a possibility the minor is in fact an adult. In this case, it would seem likely that the age-appropriate manner would come to resemble adult asylum cases, and the same significance would be ascribed to the narrative as for adults, where this is the main indication for whether the applicant qualifies for asylum. On the contrary, the narrative of the minor seems to lose almost all its credibility as the age dispute becomes the most urgent issue to address. Drawing back to Zahle, this indicates that the trust between those communicating is lost, presenting age assessment as a way for it to be re-established. In other words, the evidence is not sufficient, and in order to assess credibility, other types of evidence need to be included, once again pointing to age assessments as a way to collect this.

The absence of sufficient proof in asylum cases has made credibility a decisive factor in separating ‘genuine refugees’ from ‘opportunistic economic migrants’ (Kvittingen, 2010, p. 30), and similarly, asylum-seeking minors from asylum-seeking adults posing as minors. When unaccompanied minors cannot convince case-workers of their age, the narrative is unable to establish trust between the case-worker and the applicant, and age disputes occur. More evidence is needed to resolve the age dispute, and to assess credibility of the status as a child. More specifically, this evidence comes from the body, and will be elaborated in the following section.

5.1.4 The body as evidence

In most asylum cases, the narrative is the main source of information for determining refugee status, supplemented by COI reports or documents provided by the asylum seeker, as no other evidence can be collected. However, in the case of unaccompanied minors and age disputes, there is another option for collecting more information to verify or reject the claim for international protection, namely age assessment and therethrough the body as a source for

evidence, evading the reliance on documentary evidence or narratives. This section will examine how evidence of this type can be connected to credibility.

In their article *The Truth from the Body*, Didier Fassin and Estelle d'Halluin describe and discuss the body as a platform for providing evidence for an asylum claim, and as the place where 'the truth' is uncovered (Fassin & d'Halluin, 2005). Even though their article concerns victims of torture and the challenges they face in proving their truth, several of their arguments are useful and applicable also in the context of age assessment of asylum-seeking minors, particularly their presentation of the body as "*the place that displays the evidence of truth*" (Fassin & d'Halluin, 2005, p. 598). Individual statements have not been replaced by a need for documented evidence, but documentation of some sort is increasingly requested to verify said statements (Fassin & d'Halluin, 2005, p. 598). In the discussion of the torture-victim's asylum case, Fassin and d'Halluin argue how medical certificates confirming the physical suffering they have endured contribute to establish validity of their narratives, and how the expectation of this type of evidence has turned "*the body into a political resource through an expert's mediation*" (Fassin & d'Halluin, 2005, p. 598). This has several interesting and applicable aspects, such as the politicisation of medical examinations, as well as the significance ascribed to expert opinions. Following this argument, the political resource of Danish asylum authorities lies in requesting an age assessment procedure, and the power to determine under which framework the applicant shall fall, while age determination results represent the expert opinion. In the same way age assessment is not required in a minor's asylum case, neither are medical certificates confirming physical marks from torture. Yet in both cases, the influence of these documentations is significant, and affects the validity and credibility of statements. According to both international and Danish legislation, an unaccompanied minor is at any given time able to refuse an age assessment procedure. However, should they choose to do so, it will negatively influence their case and chances for international protection, and will in most situations result in an automatic assumption that the applicant is not a minor (EASO, 2014; Council of Europe, 2017). This sends a clear signal that if there is doubt about an applicant's age, the age assessment is deemed more reliable than the provided narrative, so if no results can be collected the conclusion becomes that the applicant has given a false statement. This not only deprives minors of the benefit of the doubt, but also directly undermines their credibility when it is evident that their original statements are not believed to be accurate. In the opposite situation, should the minor agree to undergo the age assessment procedure, and this determines a different age, their credibility is once again questioned, as the medical examination is ascribed more

validity than their previous evidence. If their statements would have been accepted as credible, age disputes would not have occurred in the first place. This points to how using the body as evidence allows Danish asylum authorities to circumvent testimonies, and thereby base asylum decisions on a different type of evidence.

Unaccompanied minors do not have to obtain medical confirmation of the suffering or violence they experienced, but in the absence of a birth certificate or official document proving age, the body nevertheless becomes the object where the 'real truth' can be found. Where Zahle places the burden of proof on several actors, Fassin and d'Halluin primarily see it as resting with the applicant, and COI or other reports as factors increasing the pressure on providing documented evidence. The challenges of this have already been explained above, but nevertheless, if a document of any kind can be produced and presented, this is normally favourable for the applicant. For unaccompanied minors however, it seems that evidence collected through age assessments is seldom in their favour, as it is not their part of the asylum case they are meant to verify. Where Fassin and d'Halluin describe the body as an information source for what did or did not happen to a person, age assessments are concentrated around uncovering evidence that can support a claim. Considering that age disputes occur when asylum authorities are not convinced the minor is the age he/she says to be, the claim to be supported is to a large extent that of the case-worker. In a sense, age assessments are more about justifying a decision for or against international protection, than they are about uncovering the 'truth'. Once more, this points to credibility as one of the most influential factors on an asylum determination. When a minor's narrative is challenged by Danish asylum authorities, it is assumed that skeletal and dental development will reveal reliable evidence about the minor's age. In the Danish context, this perception is apparent through the significant increase in the percentage of age disputes among asylum cases from unaccompanied minors, rising from 16,3% in 2015 to 78,4% the year after. This indicates that the credibility of personal statements was very low in 2016, while the trust in the age assessment procedure and its ability to provide reliable results was very high. This leads back to Fassin and d'Halluin's argument of taking credibility from the asylum seeker and granting it to the medical certificate, and herein the politicisation of medical expertise (Fassin & d'Halluin, 2005). At the same time, it says a lot about the credibility of minors and their narratives. Whereas adult asylum seekers in the Danish asylum system have their cases processed based primarily on interviews, and the information provided during these (The Danish Immigration Service, 2017), for unaccompanied minors their narratives are only one of several parts of their case. Where asylum is denied, international protection becomes the most

attainable other option. However, the problem of validity of their narrative remains, just in this case regarding their status as a child, hence the age dispute. Taking validity away from their words, and in contrast to accompanied minors who have a parent or legal guardian to testify on their behalf, the only reliable source of information that remains is the body.

This section has analysed the various kinds of evidence considered in assessing unaccompanied minors' claims for asylum or international protection. Establishing credibility is decisive for whether this protection is granted, but facing a suspicious field, age disputes commonly occur. As the narrative is unable to convince case-workers of grounds for either asylum or status as a child, and documented evidence is scarce, the body is seen as a reliable source of information that will provide evidence to verify or discredit the information provided by the applicant. Where medical certificates can verify what has happened to a victim of torture, age assessments concentrate on establishing grounds for a decision, and are arguably more concerned with establishing credibility and reaching a conclusion than uncovering facts. Age assessments are thus ascribed a significant level of influence, and it can be interesting to investigate whether this is justifiable, particularly considering the consequences they can have. In continuance of the above reasoning for using the body as evidence, the following section will analyse age assessment methods in terms of their scientific validity, and will aim to illuminate their position in the overall credibility assessment of unaccompanied minors in the Danish asylum system.

5.2 Credibility of age assessment

International asylum frameworks allow medical examination for age determination, but do not require it. Nevertheless, the majority of European States do use medical methods for this exact purpose, although procedures differ among them (Abbing, 2011; EASO, 2014). In asylum legislation in general, the age of the applicant is irrelevant. Instead, the vulnerability and danger of a person's situation is assessed to meet or not meet the conditions of the Refugee Convention. It is not until the frameworks for children's rights and legislation for unaccompanied minors are applicable that age becomes not only a relevant, but a decisive factor. As mentioned, narratives are only one of more aspects in an unaccompanied minor's asylum case, and an important difference from adult asylum cases is the availability of medical assessments. These assessments can contribute to a broader evaluation of the minor's asylum claim, yet at the same time serve to undermine the narrative. With the combination of an increase in the number of unaccompanied minors and of general suspicion towards asylum seekers, the distrust of minors' status as a child increases as well, and the narrative is deemed insufficient to determine refugee

status (Kvittingen, 2010). As a result, the majority of unaccompanied minors in Denmark go through age assessment procedures. Taking into consideration the emphasis in international frameworks on meeting the needs of an unaccompanied minor on a level appropriate to his/her maturity and age (Abbing, 2011; United Nations, 1989), it seems reasonable that asylum authorities want to know an applicant's age, and that in cases where this is unknown, certain measures can be taken to establish it. On the opposite side, considering the immense consequences an age determination can have on your case and future as an unaccompanied minor, it is also reasonable to expect that these measures can deliver reliable results. The following subsections will analyse the scientific validity of the medical methods used for age assessment in the Danish asylum system, and examine how the use of the evidence from these methods affects credibility.

5.2.1 Scientific accuracy and validity of age assessment methods

As the EASO study shows, the majority of EU Member States apply radiological methods in their age assessment processes (EASO, 2014). In relation to this, concern has been expressed that a widespread use of these methods is mistaken for a confirmation of their reliability (Noll, 2016; Smith & Brownlees, 2011). Unaccompanied minors in the Danish asylum system are characterised by uncertainties, and their discourse is affected by the general suspicion of asylum seekers as exploiters of the system. As legal systems generally do not appreciate uncertainty, a provision of measurable facts can bring a sense of relief to the initial inability to reach conclusions. Medical age assessments provide measurable results and can create a sense of certainty and reliability (Noll, 2016, p. 238). However, this sense of certainty might be false, as the actual reliability of these results can be questioned, and it is vital that their margin of error is acknowledged and taken into consideration. Gregor Noll has addresses precisely this issue, and problematises the transfer of results from medical science to political legislation (Noll, 2016). Where most critics focus on the ethical problems with medical examinations, his article *Junk Science* has a different approach. Focusing on radiological methods for age assessment, Noll argues that these do not meet the standards of forensic science and that they in fact lack scientific authority, in particular considering their margins of error, and therefore are of little value for assessing age (Noll, 2016). He further explains how radiological age assessments rely on the ability to compare results to the average development of a given reference group, yet that these scientific bases often lack for individuals from countries with weak civil registration systems (Noll, 2016, p. 238). For instance, only 6% of births were registered in Afghanistan in 2003, while only 3% were registered in Somalia in 2006 (Noll, 2016, pp. 237-238). This in turn

has consequences when average development for a reference group is to be assessed, as researches cannot be certain of the age of the participants (ibid.). Radiological age assessments are thus dependent on comparison to average development in order to determine how old an individual is, but the lack of reference-bases decreases their scientific validity.

Taking point of departure in Noll's argument, the next subsections will analyse the scientific authority of the age assessment practices applied in Denmark. Of the different x-rays applied, the determination of bone age is arguably the most debated approach regarding scientific authority and reliability. This will therefore be elaborated upon first, followed by an examination of the Demirjian method.

5.2.2 Skeletal development

Supplementing Noll's problematisation of medical results for juridical purposes, Henriette Abbing points out that several factors can influence skeletal development, including socio-economic, nutritional and medical factors (Abbing, 2011, p. 16). One of the main critiques of the G&P atlas is that it is based on data gathered from 'Caucasian' American children in the 1930s and 1940s, and is therefore not applicable to children outside this population, or populations who did not develop under the same conditions (Abbing, 2011; Noll, 2016; Mohammed, et al., 2015). Nutrition, geographic origin, stress, or abuse are further additional factors that affect how the body develops, and should be, but mostly are not, taken into consideration when examining skeletal development (Noll, 2016, pp. 240, 245). When looking at the countries of origin of unaccompanied minors in Denmark, it is evident that the overall conditions under which these children grew up are rather different than those of Western or Danish children. Studies of the possibility to apply the baseline provided by the G&P atlas to other populations show that this is challenging and problematic, and that the use of this method for "*Afghan or Somali adolescents lacks scientific support*" (Noll, 2016, p. 241). This not only shows that the methods for age assessment in Denmark do not have the scientific validity they should have for the minors on whom they are applied, but also calls into question the credibility that is ascribed to their results. Since age assessment in Denmark is primarily based on medical methods, it is evident that it is also these methods that are deemed credible, not least *more* credible than e.g. asylum testimonies. Most studies on the accuracy of the G&P method conclude that socio-economic factors can influence skeletal development, and results therefore cannot be transferred between different populations. Moreover, they find that the method is incapable of determining an exact chronological age, and is especially unreliable for teenagers

between 15 and 20 years of age (Smith & Brownlees, 2011; Soudack, et al., 2012; Noll, 2016; Dalberg, et al., 2017; Abbing, 2011). Arguably, the method should not be ascribed as much credibility as it has in asylum systems. Age assessment methods, in particular skeletal x-rays, were not created for the purpose of providing or depriving asylum-seeking minors of their right to international protection, or as a matter of fact for determining chronological age at all, but rather to establish whether a child is developing in an expected and healthy manner in relation to an already known age (Dalberg, et al., 2017). A recent study by the Norwegian Institute of Public Health on the accuracy of the G&P atlas illustrates the uncertainty of results obtained through this method, and shows that the deviation for boys aged 10-19 can vary from 4,0 to 5,9 years (Dalberg, et al., 2017). This means that a skeletal age result that determines a minor to be eighteen, could technically also conclude that the minor is fourteen, or perhaps twenty-four. Other studies set the mean standard deviation to a somewhat lower level of two years (Hjern, et al., 2011), but this would still indicate that a concluded age of eighteen could in fact also mean the applicant is sixteen. This implies that if the age of majority is indicated through examination of bone age, and the margin of error is included in the assessment, there remains a possibility that the applicant can be a minor, and therefore entitled to rights and protection according to this age. Skeletal age assessment is in other words not able to provide results with a scientifically sufficient accuracy, and yet it remains a highly influential part of credibility assessments in cases of age disputes. As will be elaborated upon later in this analysis, this shows that in terms of assessing credibility, the margin of error is not included in the assessment. Expressed differently, the validity of scientific methods is not considered.

5.2.3 Dental development

Like skeletal methods, the Demirjian method for dental development assessment also presents some challenges in estimating chronological age. Compared to skeletal development, dental maturity is less affected by nutrition, environment, and ethnicity, but these factors can nevertheless have an influence (Hjern, et al., 2011). Several studies show that assessments based on dental x-rays have a mean deviation of two years, and that chronological age is more frequently overestimated than underestimated (Yan, et al., 2013; Smith & Brownlees, 2011, pp. 16-17). Other studies show that the possibility of applying the method across populations is problematic as well, and that this affects the accuracy of results (Asab, et al., 2011; Ifesanya & Adeyemi, 2012). The scientific validity of dental development assessments is arguably higher than for skeletal developments, yet a problem remains that *“there is absolutely unanimity in the scientific literature that it is impossible to exactly determine a patient’s chronological age from*

dental radiographs” (Affidavit of Dr Herbert F. Frommer, January 28, 2002 in Physicians for Human Rights, 2003:132 in Smith & Brownlees, 2011, p.16).

For unaccompanied minors in Denmark, dental development is part of three methods for assessing age (physical maturity, bone age and dental age), and the three results are combined into a statement on a probable age (Retsmedicinsk Institut, 2017). However, at the slightest resistance from the minor, dentists stop their examination, and dental development is excluded from the age determination (Bendixen, 2016a). Included or not, both situations present certain challenges. If dental development is a part of the age assessment result, there are two methods that include a margin of error that is, highly likely, not taken into consideration when asylum authorities review the results. If dental development is not included, age determination must rely on a physical maturity examination, in combination with a skeletal age result that lacks sufficient accuracy. The fact that age assessments are conducted as frequently as they are, despite that the methods cannot be scientifically defended, underlines how age assessment procedures in the Danish asylum system seem to be more directed at producing evidence to undermine credibility, and thereby place the asylum seeker in a different legal category, than they are concerned with the actual results.

5.2.4 Medical methods, chronological age, and asylum law

The main collision point between medical age assessment methods and asylum legislation lies in the fact that the latter requires a specific chronological age, while the former is unable to determine this. Frameworks for children’s rights are formulated primarily by Western nations, and build extensively around the image of childhood lasting until the age of eighteen, pointing to age as a main indicator for maturity (Whitworth, 2010). While acknowledging that other factors can affect the maturity of a child, needs and capabilities become subordinate when focusing on age as a division line for entitlements in asylum. When age disputes occur in asylum cases, it is the applicant’s belonging to the category of child or adult that must be clarified, while any special needs are almost insignificant. This stands in connection to asylum legislation, where it is precisely a specific, chronological age that determines whether the applicant belongs to one category or the other. What becomes ambiguous however, is when medical methods are used to determine this chronological age. As explained in the previous sections, radiological age assessment methods are unable to draw scientifically valid and sufficiently accurate conclusions, yet they are continuously used for this purpose. It is the explicit need for an exact number that allows for age assessments and questioning of credibility,

which in turn leads to the rejection of asylum applicants who no longer fit within the ‘child’ category based on this one indicator. If, however, other factors like needs or maturity were to also be included, the applicant might contrastingly have been assessed to belong to the ‘child’ category. The decisive position of a chronological age in legislation thus justifies the use of medical age assessment methods in asylum, as the need for a specific age weighs heavier than a methods’ inaccuracy. As long as an age can be set on the foundation of examinations, the main purpose of age assessment has been accomplished.

This section has discussed the scientific authority of the medical age assessment methods applied in the Danish asylum system, and what influence they can have on credibility. Based on the above, the following section will reflect on what has been uncovered, and investigate what purpose age assessments in the Danish asylum system seem to serve.

5.3 Age, credibility, and practice

Credibility can essentially be described as assessing all the evidence available and indicating what is believable and what is not (Thomas, 2006, p. 81). The previous sections have outlined what this evidence can consist of in the Danish asylum system, and which roles they play in the determination of what is believable. Furthermore, the scientific validity of age assessment methods has been discussed, and it has been examined how results affect credibility. Building on the above, this section will analyse policy and practice in the Danish asylum system, by examining certain aspects that can affect asylum case-workers in making their asylum decisions. While policy determines the overall direction of asylum procedures, it should be recognised that case-workers, by being individual impressionable persons, are important actors within these procedures, and that they are the ones who essentially draw deciding conclusions.

5.3.1 Validity or justification?

Within the discourse of unaccompanied minors in Denmark, a lot of focus has been on the results of age assessment, but little (official) attention has been devoted to the methods through which these results are reached. As briefly mentioned above, the influence ascribed to the ‘scientific evidence’ from age assessments relies on overlooking the actual validity of the scientific methods applied. This points to the fact that age assessment methods in the Danish asylum system are not so much part of an attempt to reach scientifically reliable results, but rather are part of a system that has a need to establish credibility through some type of evidence. If an unaccompanied minor has not managed to establish credibility for his/her claim, either

through documentation or an asylum statement, an age assessment procedure can validate this claim. On the opposite side, if Danish asylum authorities have not deemed the minor's asylum claim as credible, scientific age assessment results can justify the dispute. The latter seems to be the primary purpose of age assessments in the Danish asylum system, which is evident not only through the high percentage of age disputes (78% of cases in 2016) that in itself underlines that credibility has not been established earlier on in the asylum process, but mainly through the high percentage of age determinations of eighteen years or above (79% of all age disputed cases in 2016), validating the dispute of the provided age (Udlændinge-, Integrations- og Boligministeriet, 2016; 2017). Not taking into consideration the conditions and factors that can affect skeletal development, yet using this development for establishing chronological age creates a gap of scientific uncertainty that is disregarded in the legal procedure of asylum. The majority of age disputed cases in Denmark in the last two years resulted in an assessed age of eighteen or above. Without access to the specific outcomes of age determinations, this can point to at least two scenarios, where on the one hand it can indicate an increase of young adults posing as minors in the Danish asylum system, who through age assessment are rightfully assessed to be adults. On the other, it can indicate that the Danish asylum system does not often choose the lowest possible age of the age assessment results, thus not taking the margins of error into consideration, and thereby dismisses the relevance of the scientific validity as relevant to the age assessment results. Based on the arguments above, the latter is not entirely unthinkable, which again points to the use of medical age assessment as a means to establish credibility rather than as a scientific exercise.

Drawing back to Fassin and d'Halluin, using the body as a source of evidence for age is not with the intention of uncovering the truth or confirming physical violence, as it is with victims of torture. The body as evidence for age instead creates validity of a decision by asylum authorities, in terms of providing something concrete that can be referred to. Because of the high level of doubt, and the sensitivity of children and international protection, it is vital that asylum decisions can be justified, and that they can be justified *based on* something. This is arguably the main purpose of age assessments in the Danish asylum system, to produce evidence that can be referred to if the decision on an age dispute needs to be defended or explained.

5.3.2 Presumptions of demeanour and vulnerability

In continuance of previous arguments on age disputes, an influential factor on case-workers' overall impression of narratives is demeanour. Asylum cases should be assessed objectively, especially for children, as they might not be able to present their asylum case in light of the overall conditions in their country of origin (Home Office, 2016, p. 34). In spite of this, case-workers are affected by personal experiences, opinions, and backgrounds in terms of what strikes them as likely, plausible, or abnormal (Kvittingen, 2010; Macklin, 1999; Kagan, 2015). This can be connected both to the image of a genuine victim, but also to the image of a child. Demeanour can contradict presumptions case-workers have of how an unaccompanied minor seeking asylum should behave in terms of facing persecution, but also in terms of capabilities and agency during flight. The division line between demeanour of a child and demeanour of an asylum seeker seems to be represented through vulnerability or resourcefulness, where signs of resourcefulness excludes belonging to the child category, and vice versa (Verdasco, 2017, p. 44). Furthermore, vulnerability as a characteristic is ascribed to girls more often than it is to boys. Related to the image of the genuine victim, Wikström & Johansson describe how women seeking asylum are associated with victimisation and a need of being shielded from violence, while men are associated with political acts and persecution (Wikström & Johansson, 2013, pp. 94-95). While this might be true for girls and boys as well, these differences in association can also be transferred to the categories of 'child' and 'adult'. Where the child is vulnerable, innocent, and in need of protection, the adult is resourceful, deceiving, and takes advantage of the asylum system. In continuance, different types of behaviour, appearance, and experience are associated with the two categories, making it challenging to place those who show characteristics from both categories in one selected category.

Still, there are a number of other factors, including experiences and living situations, that can contribute to children reaching certain levels of maturity and can be reflected in their demeanour, but perhaps not considered child-like in Western societies. Minors seeking asylum in Europe have often grown up in economic and political environments where being a child does not entail any special rights, and children "*grow up very quickly*" (Crawley, 2010, p. 166). Assumptions about child-like behaviour collide with the agency and mature identities these minors demonstrate (ibid.), and might give the impression that they are not children, while perhaps they are simply children who had to grow up faster. Combining this with the underlying suspicion characterising asylum seekers, and the discourse of young adults claiming to be minors, unaccompanied minors in the asylum system face a preconditioned tension about their

age (Kvittingen, 2010, p. 31). Frameworks for children's rights are meant to ensure that children have the possibility precisely to remain children, describing certain needs that are associated with being the 'innocent and dependent' child that requires care and protection, and this does not go along with the unaccompanied minor who is capable of arriving alone in Europe to seek asylum. Building further on this, case-workers may be susceptible to ascribe more influence on deviations from expected demeanour than to the evidence presented, pointing back to the dual struggle that unaccompanied minors face in establishing credibility.

5.3.3 Countries of origin and age disputes

In the Danish context of unaccompanied minors and asylum, different groups seem to have different characteristics. These are based on and created by various sources, such as COI reports and official policies and/or statements, but also civil society and media. Indirectly, and perhaps subconsciously, these contribute to different approaches for different groups of minors.

Unaccompanied minors from Afghanistan come to Denmark mainly for refugee status and international protection, yet most of them will have their asylum applications rejected (Bendixen, 2016b). Though they might have a chance for international protection for children, most of the minors from Afghanistan are teenage boys (Udlændinge-, Integrations- og Boligministeriet, 2017; 2016). Based on the abovementioned challenges related to demeanour, most of them will likely have their age disputed and go through an age assessment process to determine whether they can fall under the framework for children and international protection, or will be returned as failed asylum seekers. The previously explained possibility of sending minors back to countries of origin has resulted in many returns (Bendixen, 2016b). If a minor is granted a residence permit, this will generally expire when the minor turns eighteen, after which he/she will be deported (The Danish Immigration Service, 2016). The main approach for unaccompanied minors from Afghanistan thus seems to be to send them back, or grant protection where required under international obligations, followed by deportation at the age of majority.

Minors from African countries, particularly northern African countries, have a quite different characteristic and are often referred to as "*unaccompanied minor asylum seekers with street-child behaviour*" (Danish Red Cross, 2014). They are described as less interested in asylum or permanent residence, and instead intend to travel between several European countries, using asylum systems as a base and temporary sense of stability (Danish Red Cross, 2014; Braunstein,

2016). They often come from tough conditions and have lived on the streets for several years, and tend to have little trust and faith in authorities and official institutions (Danish Red Cross, 2014, pp. 4, 25-28). Furthermore, they are often engaged in drugs and/or smaller crimes (Danish Red Cross, 2014; Bendixen, 2016c). With an increase of minors with street-child behaviour in the latest years, the Danish Immigration Service decided in 2013 to establish a separate accommodation centre, run by the Danish Red Cross, to best deal with the challenges these minors embody, and to simultaneously stabilise security at other centres (Danish Red Cross, 2014, p. 4). After some time, these minors tend to disappear from asylum centres, presumably moving on to other European countries (Danish Red Cross, 2014).

It can be argued that these characteristics of different ‘groups’ of unaccompanied minors contribute to certain preconditions and presumptions for asylum motives, thereby indirectly influencing asylum case-workers in their approach for the asylum case. It can for instance be questioned whether the majority of Afghan minors do in fact look like adults, or if their age is disputed based on an underlying impression that their asylum claim most likely will have little credibility anyway, and therefore an age assessment process can help establish a foundation for an asylum decision. On the opposite side, underlying presumptions of African minors’ disinterest in asylum decisions might deem an age assessment process unnecessary use of time and resources, causing a smaller number of this ‘group’ to have their age disputed. To a certain extent, country of origin can thus affect a minor’s position in asylum, and might contribute to certain preconditions and assumptions for asylum motives, and thereby the selected procedures for the asylum case. Without further insight into detailed information on age disputed cases, it is difficult to come to any other conclusions than that these tendencies are curious. However, this can nonetheless point to the fact that certain tendencies of practice not necessarily originate from policy.

5.3.4 Child, adult or almost adult?

The main reason for using age assessment in asylum in general is to determine whether the applicant falls under the framework for children, or the framework for adults. As explained above, the division between the two categories is age, more specifically the age of eighteen. Interestingly, the decision from Danish authorities to place 17-year-olds in separate facilities at adult asylum centres effectually creates a third category of age in the Danish asylum system. While it has been discussed that chronological age not necessarily corresponds with the levels of maturity associated with being a child or an adult, these are nevertheless the categories legal

frameworks operate with, meaning that until the age of eighteen is reached, the person in question should be considered a child and treated accordingly. However, in the Danish asylum system, this is hereby no longer the case. As prescribed in frameworks for children's rights, these minors are still entitled to special care and protection, not least from adult environments that can jeopardize their safety and well-being. Even though there are separate facilities with more staff appointed (Grahndin, 2017), they are nonetheless exposed to adult environments. Among other things, this is evident through adult centres' general limitations of activities, education, or age-appropriate care for specific physical or psychological needs (Hjern, et al., 2011), but moreover by the mere fact that they are no longer surrounded by other unaccompanied minors with whom they might share experiences, but by adult asylum seekers who may have very different perceptions of asylum.

While the Danish Immigration Service bases the decision in efficiency and profitability of asylum centres, the Danish Red Cross has expressed concerns about taking minors out of the supportive environments that children centres provide (Udlændingestyrelsen, 2016; fyens.dk, 2016). Other statements have expressed that the moving of these minors has the intention to help them become more independent and prepare for adult life, either in asylum centres or elsewhere (Grahndin, 2017). Regardless, this separation indicates a very interesting practice, where instead of allowing minors to enjoy the rights they are entitled to as children for as long as possible, it might seem as though they are being prepared for a different framework. Drawing back to the political identities of both 'asylum seeker' and 'child' (Vitus & Lidén, 2010), the separation represents a solution to these conflicting positions. Arguably, there remains a focus on the identity of 'asylum seeker', but by separating unaccompanied minors from the rest of the asylum centre, the identity of 'child' is still acknowledged. In a way, this allows the Danish asylum system to address both positions, without having to choose one over the other, yet at the same time maintain the approach of ascribing more weight to the 'asylum seeker' identity.

In relation to age assessment, this implementation thus means that age disputes not only will have consequences for an unaccompanied minor if his/her age is determined to be eighteen, but also if the age determination concludes he/she is seventeen. With the creation of a third category of age in asylum there are suddenly more possible outcomes of age assessment, and the accuracy of results comes to be of even more importance. Furthermore, it is increasingly evident how the structures of age assessment procedures can create age disputes, and how the use of age assessment results as evidence can affect the credibility of unaccompanied minors. In turn,

this shows how significant it becomes for unaccompanied minors to be able to convince case-workers of their claim as they themselves present it, or, in other words, how significant it becomes to rapidly establish credibility.

6. Conclusion

This thesis has explored the field of age disputes and credibility in the Danish asylum system, with the attempt to answer the research question; “*How do age assessment procedures structure age disputes in the Danish asylum process, and how does the use of these age assessments as evidence affect credibility in asylum determination for unaccompanied minors?*”, and reach a profounder understanding of the connection between credibility, age assessment, and age disputes. Credibility holds a strong position in asylum, and is a complex issue affected by various aspects. Different types of evidence for establishing credibility have been analysed and discussed. Particularly in relation to unaccompanied minors, the body as a source for verification stands out. Moreover, the analysis has shown how age assessment methods structure age disputes, and how these have a significant influence on the credibility of unaccompanied minors in the Danish asylum system. There are different ways to assess how old a minor is, and this thesis has argued that the choice of methods can influence why and how age disputes occur. The Danish asylum system relies on medical age assessment methods, and determines age by assessing physical maturity, skeletal development, and dental development. The radiological methods have been analysed and discussed in terms of their scientific accuracy and validity, and it has been argued that they do not have the scientific authority to determine a specific chronological age for the minors in the Danish asylum system, despite that this is what they are used for. Furthermore, the analysis has examined and discussed how age assessments in the Danish asylum system serve a purpose of producing evidence to support and justify an asylum decision, rather than being an exercise to uncover scientific facts.

Age disputes are structured by age assessment procedures in the sense that different methods allow different aspects to dominate the asylum determination. Methods focusing on interviews with the minor let the asylum statement dominate, sometimes supplemented by documented evidence and psychological evaluations (Home Office, 2016). Age assessment methods focusing on medical examinations let this form of evidence dominate asylum cases, and tend to ascribe more credibility to scientific results than narratives or documents. As illustrated through, among other things, the comparison between British and Danish practice, different

methods can reach different conclusions on the age of an applicant, depending on what dominates the assessment. By placing the focus of an age assessment on one aspect, credibility indirectly becomes attached to the same aspect, demonstrating how age assessment procedures structure age disputes. Once age disputes have occurred and evidence has been collected to confirm that the minor indeed indicated a false age, the overall credibility of the applicant is damaged. Consequently, this has a significant influence on the asylum determination, demonstrating the relation between age assessments and credibility.

The age assessment process is where unaccompanied minors are most at risk of failing as asylum seekers. Despite several frameworks clearly stating that children should always be given the benefit of the doubt (EASO, 2014; UNHCR, 1997; United Nations, 1989), and despite the relatively high margins of error in the age assessment methods applied in the Danish asylum system, the assessments seem to eliminate any existing doubt about whether an applicant is a minor or not. This is in itself somewhat dubious, and speaks once more to the credibility of the age assessment methods. Following Noll's arguments on the validity of radiological methods and test results, if the age assessment methods cannot provide a sufficiently credible result and a specific chronological age, then these tests are in themselves not credible. Furthermore, if the benefit of doubt always should allow age disputed minors to be considered children, then the methods are to a certain extent also irrelevant, because they cannot eliminate a pre-existing doubt with an unreliable result that merely creates a new level of doubt (Noll, 2016). If this argument were to be followed in every case, age disputes would have little purpose. The Danish asylum system does not provide a benefit of the doubt concerning unaccompanied minors and age, as explained earlier. While it can be argued that Danish authorities are in their right to do so considering their opt-out of the EU directive on Justice and Home Affairs (Adler-Nissen & Gammeltoft-Hansen, 2010), the ratification of the UNCRC determines otherwise (United Nations, 1989). Hence, through the various conventions it is a party to, Denmark has multiple legal responsibilities, yet national practice may collide with overall policy and bureaucratic procedures. While this thesis does not provide sufficient research or evidence to determine this, it can be questioned whether age disputes in the Danish asylum system are a way of circumventing international responsibilities. By determining that an unaccompanied minor is actually an adult, the frameworks for children in asylum can be avoided, and asylum authorities can allow themselves certain decisions that cannot be justified if children are involved, such as deportations. In terms of welfare protection, it is beneficial for the Danish authorities that age disputed minors are assessed to be adults, rather than remain children who are entitled to far

more welfare elements. Again, this thesis is not able to draw any conclusions on this matter, but as the topic has been touched upon in other academic literature (Kvittingen, 2010; Vitus & Lidén, 2010), it is nevertheless an interesting speculation, also for the Danish case.

When comparing the insufficient level of scientific validity to the significant consequences age determination can have, it can be argued that the influence of medical examination results on credibility should be kept to a minimum. Nevertheless, in the Danish asylum system, medical evidence obtained through age assessments has a strong position in the overall determination of credibility for unaccompanied minors. This thesis concludes that age assessment procedures in the Danish asylum system are characterised by a paradox. It is contradicting to assess age, verify age disputes, and justify asylum determinations based on scientific evidence, yet at the same time not assess the scientific validity and authority of said evidence. The paradox that characterises age disputes and age assessment procedures once more portrays how age assessments in the Danish asylum system are not so much about determining age, but rather about producing evidence. Tracing back to Zahle, seeing evidence as credibility and credibility as probability (Zahle, 2005), an asylum decision largely comes down to whether a case-worker considers an asylum claim to be plausible rather than true. Undeniably, credibility in asylum is a complex issue, and age should arguably not be the only factor to establish or dismiss this.

References

- Abbing, H. D. R., 2011. Age Determination of Unaccompanied Asylum Seeking Minors in the European Union: A Health Law Perspective. *European Journal of Health Law*, Issue 18, pp. 11-25.
- Adler-Nissen, R. & Gammeltoft-Hansen, T., 2010. Straitjacket or Sovereignty Shield? The Danish Opt-Out on Justice and Home Affairs and Prospects after the Treaty of Lisbon. *Danish Foreign Policy Yearbook 2010*, pp. 137-161.
- Asab, S. A., Noor, . S. N. F. M. & Khamis, M. F., 2011. The Accuracy of Demirjian Method in Dental Age Estimation of Malay Children. *Singapore Dental Journal*, 32(1), pp. 19-27.
- BBC, 2017. *Migrant crisis: Migration to Europe explained in seven charts*. [Online] Available at: <http://www.bbc.com/news/world-europe-34131911> [Accessed 02 September 2017].
- Bendixen, M. C., 2016a. *refugees.dk: Tvivlsom test afgør flygtningebørns alder*. [Online] Available at: <http://refugees.dk/fokus/2016/december/tvivlsom-test-afgoer-flygtningeboerns-alder/> [Accessed 25 September 2017].
- Bendixen, M. C., 2016b. *refugees.dk: Revival of plans to make reception centre in Afghanistan for unaccompanied minors*. [Online] Available at: <http://refugees.dk/en/news/2016/november/revival-of-plans-to-make-reception-centre-in-afghanistan-for-unaccompanied-minors/> [Accessed 05 October 2017].
- Bendixen, M. C., 2016c. *Alone in a strange country - unaccompanied refugee children*. [Online] Available at: <http://refugees.dk/en/focus/2016/july/alone-in-a-strange-country-unaccompanied-refugee-children/> [Accessed 29 October 2017].
- Bendixen, M. C., 2016d. *refugees.dk: The asylum restrictions in brief summary*. [Online] Available at: <http://refugees.dk/en/news/2016/januar/the-asylum-restrictions-in-brief-summary/> [Accessed 16 October 2017].
- Bendixen, M. C., 2017. *refugees.dk: Dublin-Aftalen*. [Online] Available at: <http://refugees.dk/fakta/asylproceduren-i-danmark/dublin-aftalen/> [Accessed 05 September 2017].
- Bhabha, J., 2001. Minors or Alines? Inconsistent State Intervention and Separated Child Asylum-Seekers. *European Journal of Migration and Law*, Issue 3, pp. 283-314.
- Bloch, C., 2016. *Berlingske: DF vil tage særlige rettigheder fra flygtningebørn*. [Online] Available at: <https://www.b.dk/politiko/df-vil-tage-saerlige-rettigheder-fra-flygtningeboern> [Accessed 24 September 2017].
- Braunstein, M., 2016. *lokalavise.dk: Hård kritik fra borgmester: Stor fejl at kriminelle uledsagede gadebørn placeres i åbent asylcenter*. [Online] Available at: <http://www.lokalavisen.dk/haard-kritik-fra-borgmester-stor-fejl-at-kriminelle-uledsagede-gadeboern-placeres-i-aabent-asylcenter-/20161205/artikler/312059991/1051> [Accessed 05 October 2017].
- British Refugee Council, 2017b. *Children in the Asylum System*, Stratford: Refugee Council.
- Collett, E., 2015. *Migration Policy Institute: The Asylum Crisis in Europe: Designed Dysfunction*. [Online]

Available at: <http://www.migrationpolicy.org/news/asylum-crisis-europe-designed-dysfunction>
[Accessed 23 September 2017].

Collett, E., 2016. *The Paradox of the EU-Turkey Refugee Deal*. [Online]
Available at: <http://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal>
[Accessed 12 September 2017].

Connor, P., 2017. *Pew Research Center: Asylum applications from unaccompanied minors fell sharply in Europe in 2016*. [Online]
Available at: <http://www.pewresearch.org/fact-tank/2017/05/04/asylum-applications-from-unaccompanied-minors-fell-sharply-in-europe-in-2016/>
[Accessed 29 September 2017].

Council of Europe, 2017. *Age assessment: Council of Europe member states' policies and practices respectful of children's rights in the context of migration*, Strasbourg: Council of Europe.

Crawley, H., 2010. 'No one gives you a chance to say what you are thinking': finding space for children's agency in the UK asylum system. *Area*, 42(2), pp. 162-169.

Dalberg, P. S. et al., 2017. *Samsvar mellom kronologisk alder og skjelettalder basert på Greulich og Pyle-atlaset for aldersestimering*, Oslo: Folkehelseinstituttet.

Danish Red Cross, 2014. *Unaccompanied minor asylum seekers with street behaviour*, Copenhagen: Danish Red Cross.

Danmarks Statistik, 2016. *Asylansøgninger og opholdstilladelser 2015*. [Online]
Available at: <http://www.dst.dk/Site/Dst/Udgivelser/nyt/GetPdf.aspx?cid=20613>
[Accessed 22 July 2017].

Danmarks Statistik, 2017. *Asylansøgninger og opholdstilladelser 2016*. [Online]
Available at: <http://www.dst.dk/Site/Dst/Udgivelser/nyt/GetPdf.aspx?cid=22654>
[Accessed 22 July 2017].

Det Udenrigspolitiske Nævn, 2008. *Forsvarsudvalget 2007-08 (2. samling)*. s.l.:UPN.

EASO, 2014. *Age assessment practice in Europe*, Luxembourg: Publications Office of the European Union.

European Commission, 2016. *The EU and The Refugee Crisis*. [Online]
Available at: <http://publications.europa.eu/webpub/com/factsheets/refugee-crisis/en/>
[Accessed 12 September 2017].

Eurostat, 2016. *Asylum applicants considered to be unaccompanied minors*, s.l.: Eurostat Press Office.

Fassin, D. & d'Halluin, E., 2005. The Truth from the Body: Medical Certificates as Ultimate Evidence for Asylum Seekers. *American Anthropologist*, December, 107(4), pp. 597-608.

fyens.dk, 2016. *Regeringen flytter 17-årige asylansøgere ud af børnecentre*. [Online]
Available at: <http://www.fyens.dk/indland/Regeringen-flytter-17-aarige-asylansoegere-ud-af-boernecentre/artikel/3102349>
[Accessed 24 October 2017].

Gibb, R. & Good, A., 2013. Do the Facts Speak for Themselves? Country of Origin Information in French and British Refugee Status Determination Procedures. *International Journal of Refugee Law*, 1 June, 25(2), pp. 291-322.

Grahndin, F., 2017. *tv: 17-årige flygtninge samles på asylcentre*. [Online]
Available at: <https://www.tvsyd.dk/artikel/hviding-bliver-asylcenter-17-aarige>
[Accessed 04 September 2017].

- Hjern, A., Brendler-Lindqvist, M. & Norredam, M., 2011. Age assessment of young asylum seekers. *Acta Pædiatrica*, 2012(101), pp. 4-7.
- Home Office, 2015. *Asylum Policy Instruction: Assessing credibility and refugee status*, London: Home Office.
- Home Office, 2016. *Processing children's asylum claims*, London: Home Office.
- Home Office, 2017. *National Statistics Asylum*. [Online]
Available at: <https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/asylum>
[Accessed 25 October 2017].
- Ifesanya, J. & Adeyemi, A., 2012. Accuracy of age estimation using Demirjian method among Nigerian children.. *Afr J Med Med Sci.* , September, 41(3), pp. 297-300.
- Joint Committee on Human Rights, 2013. *Human Rights of unaccompanied migrant children and young people in the UK*, London: The Stationary Office Limited.
- Kagan, M., 2015. Believable victims: Asylum Credibility and the Struggle for Objectivity. *Georgetown Journal of International Affairs*, Winter/Spring, 16(1), pp. 123-131.
- Kvittingen, A. V., 2010. *Negotiating Childhood: Age assessment in the UK asylum system*, Oxford: Refugee Studies Centre.
- Lapan, S. D., Quartaroli, M. T. & Riemer, F. J., 2012. *Qualitative Research: An Introduction to Methods and Designs*. 1 ed. San Francisco: Jossey-Bass.
- Lemberg-Pedersen, M., 2015. *The rise and fall of the ERPUM pilot: Tracing the European policy drive to deport unaccompanied minors*, Oxford: Refugee Studies Centre.
- Macklin, A., 1999. Truth and Consequences: Credibility Determination in the Refugee Context. *Realities of Refugee Determination on the Eve of a New Millennium*, pp. 134-140.
- McKinney, C. J., 2016. *Full fact: Age assessments for Calais asylum seekers*. [Online]
Available at: <https://fullfact.org/immigration/age-assessments-calais-asylum-seekers/>
[Accessed 19 October 2017].
- Meinel, E. G., 2015. *Uledsagede mindreårige asylansøgere*, København: Dansk Flygtningehjælp.
- Mohammed, R. B. et al., 2015. Is Greulich and Pyle standards of skeletal maturation applicable for age estimation in South Indian Andhra children?. *J Pharm Bioallied Sci.* , Jul-Sep, p. 218–225.
- Noll, G., 2016. Junk Science? Four Arguments against the Radiological Age Assessment of Unaccompanied Minors Seeking Asylum. *International Journal of Refugee Law*, Issue Vol. 28 No. 2, pp. 234-250.
- OHCHR, 2014. *Status of Ratification: Convention on the Rights of the Child*. [Online]
Available at: <http://indicators.ohchr.org/>
[Accessed 14 Jul 2017].
- Rasmussen, L., 2015. *DR.dk: Regionalt: København: BAGGRUND Sådan vurderer en læge alderen på et uledsaget flygtningebarn*. [Online]
Available at: <https://www.dr.dk/nyheder/regionale/hovedstadsomraadet/baggrund-saadan-vurderer-en-laege-alderen-paa-et-uledsaget>
[Accessed 22 September 2017].
- Retsmedicinsk Institut, 2017. *Undersøgelser af levende*. [Online]
Available at: http://retsmedicin.ku.dk/om_instituttet/retspatologi/undersoegelser/#RPA-

aldersvurderinger

[Accessed 12 October 2017].

Rigspolitiet, 2017. *National Strategisk Analyse 2017*, Copenhagen: Rigspolitiet.

Rolseth, V. et al., 2017. *Demirjians utviklingsstadier på visdomstenner for estimering av kronologisk alder*, Oslo: Folkehelseinstituttet.

Smith, T. & Brownlees, L., 2011. *Age assessment practices: a literature review & annotated bibliography*, New York: UNICEF.

Soudack, M. et al., 2012. Bone age in the 21st century: is Greulich and Pyle's atlas accurate for Israeli children?. *Pediatr Radiol*, 12 January, Issue 42, p. 343–348.

Souter, J., 2011. A Culture of Disbelief or Denial? Critiquing Refugee Status Determination in the United Kingdom. *Oxford Monitor of Forced Migration*, February, 1(1), pp. 48-59.

The Danish Immigration Service, 2016. *New to Denmark: Asylum: Unaccompanied Minor Asylum Seekers*. [Online]

Available at: https://www.nyidanmark.dk/en-us/coming_to_dk/asylum/unaccompanied_children.htm
[Accessed 20 05 2017].

The Danish Immigration Service, 2017. *New in Denmark: more about applying for asylum*. [Online]

Available at: https://www.nyidanmark.dk/en-us/coming_to_dk/asylum/asylum_process/more_about_applying_to_asylum.htm
[Accessed 09 October 2017].

The European Parliament and the Council of the European Union, 2013. *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)*. s.l.:Official Journal of the European Union.

Thomas, R., 2006. Assessing the Credibility of Asylum Claims: EU and UK Approaches Examined. *European Journal of Migration and Law*, Volume 8, pp. 79-96.

Udlændinge- og Integrationsministeriet, 2013. *Danish Alien (Consolidation) Act 2003*. [Online]

Available at: <http://www.refworld.org/docid/3ae6b5634.html>

Udlændinge- og Integrationsministeriet, 2017a. *Tal på udlændingeområdet pr 30.09.2017*, Copenhagen: Udlændinge- og Integrationsministeriet.

Udlændinge- og Integrationsministeriet, 2017b. *Gennemførte stramninger på udlændingeområdet*. [Online]

Available at: <http://uim.dk/gennemførte-stramninger-pa-udlaendingeområdet>
[Accessed 16 October 2017].

Udlændinge-, Integrations- og Boligministeriet, 2016. *Tal og fakta på udlændingeområdet 2015*, Copenhagen: Udlændingestyrelsen.

Udlændinge-, Integrations- og Boligministeriet, 2017. *Tal og fakta på udlændingeområdet 2016*, Copenhagen: Udlændingestyrelsen.

Udlændingestyrelsen, 2016. *Færre driftsoperatører på børnecenterområdet i 2017*. [Online]

Available at: <https://www.nyidanmark.dk/da-dk/nyheder/nyheder/udlaendingestyrelsen/2016/faerre-driftsoperatoerer-boernecenteromraadet-2017.htm>

Udlændingestyrelsen, 2017. *Nyheder: Nyt tilsyn for uledsagede mindreårige asylansøgere*. [Online]

Available at: https://www.nyidanmark.dk/da-dk/Nyheder/Nyheder/udlaendingestyrelsen/2017/nyt_tilsyn_umi.htm
[Accessed 03 October 2017].

- UNHCR & ERF, 2013. *Beyond proof: Credibility Assessment in European Asylum Systems*, Brussels: UNHCR; European Refugee Fund of the European Commission.
- UNHCR, 1994. *Refugee Children: Guidelines on Protection and Care*. [Online]
Available at: <http://www.refworld.org/docid/3ae6b3470.html>
[Accessed 16 July 2017].
- UNHCR, 1997. *Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum*, Geneva: Office of the United Nations High Commissioner for Refugees .
- UNHCR, 2010. *Convention and Protocol Relating to the Status of Refugees*, Geneva: UNHCR.
- UNHCR, 2015. *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*, s.l.: UNHCR.
- UNHCR, 2017a. *About us: History of the UNHCR: The 1951 Refugee Convention*. [Online]
Available at: <http://www.unhcr.org/1951-refugee-convention.html>
[Accessed 15 July 2017].
- UNHCR, 2017b. *Global Trends: Forced Displacement in 2016*, Geneva: UNHCR.
- UNHCR, 2017c. *Operational Portal: Situations: Mediterranean Situation*. [Online]
Available at:
http://data2.unhcr.org/en/situations/mediterranean#_ga=2.34406886.634103652.1505901816-1732428983.1500118315
[Accessed 20 September 2017].
- UNICEF, 2016a. *Danger every step of the way: A harrowing journey to Europe for refugee and migrant children*, s.l.: UNICEF.
- UNICEF, 2016b. *Child protection from violence, exploitation and abuse*. [Online]
Available at: https://www.unicef.org/protection/57929_58010.html
[Accessed 10 October 2017].
- UNICEF, 2016c. *The births of nearly one fourth of the global population of children under five have never been registered*. [Online]
Available at: <https://data.unicef.org/topic/child-protection/birth-registration/#>
[Accessed 29 September 2017].
- United Nations, 1989. *Convention on the Rights of the Child*. New York City: United Nations General Assembly.
- Verdasco, A., 2017. Understandings of self through the category of the ‘unaccompanied asylum-seeking minor’: a Danish ethnography. *Barn*, 2(3), pp. 43-57.
- Vitus, K. & Lidén, H., 2010. The Status of the Asylum-seeking Child in Norway and Denmark: Comparing Discourses, Politics and Practices. *Journal of Refugee Studies*, 23(1), pp. 62-81.
- Whitworth, K. D., 2010. *Western Depictions of Children and the New Imperialism*. [Online]
Available at: <http://www.e-ir.info/2010/04/09/the-new-imperialism-are-western-adultchild-depictions-crippling-the-universalization-of-human-rights/>
[Accessed 21 October 2017].
- Wikström, H. & Johansson, T., 2013. Credibility Assessments as 'Normative Leakage': Asylum Applications, Gender and Class. *Social Inclusion*, 1(2), pp. 92-101.
- Yan, J. et al., 2013. *Assessment of Dental Age of Children Aged 3.5 to 16.9 Years Using Demirjian's Method: A Meta-Analysis Based on 26 studies*, s.l.: PLOS ONE.
- Zahle, H., 2005. Competing patterns for evidentiary assessments. In: G. Noll, ed. *Proof, Evidentiary Assessment and Credibility in Asylum Procedures*. s.l.:BRILL, pp. 13-26.