



“Alternative Dispute Resolution Principles as a factor to generate
new investments in Ireland Post-Brexit”

By

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A dissertation presented to the

FACULTY OF LAW
INDEPENDENT COLLEGE DUBLIN

MA in Dispute Resolution

22 May, 2020

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MA in Dispute Resolution

Dissertation Topic:

“Alternative Dispute Resolution Principles as a factor to generate new investments in Ireland Post-Brexit”

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Due Date:

22/05/2020

Word Count:

16,364

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- All sources have been reported and acknowledged.
- This dissertation has not been submitted entirely or in parts for any degree or other qualification.

Signed

Daniela Martínez Pinzón

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Acknowledgements

I am very grateful to my mother Tita Pinzón and my sister Mariana Martínez for their love and unconditional support in each of my decisions, and for always encouraging me to keep going. I couldn't have done this without them, so I would like to dedicate this achievement to them and to my father, who is always in my heart and my thoughts guiding me.

Special thanks to Ken Phelan, Abraham Ojeda, and Alexandre Doderó, because they have always believed in me and have accompanied me along the way without letting me fall and pushing me day by day; My gratitude to all those who support me with words and acts of encouragement and love.

My recognition to my supervisor John Dunne B. L. for all the assistance, knowledge and professionalism provided in the process of this research project, as well as to our program leader Anastasia Ward for her patience and for sharing with me her vast experience during the master's study process, and to all the professionals who accepted to participate in this dissertation project.

Abstract

The following dissertation explores the role of Alternative Dispute Resolution in commerce in order to find whether it is an important element for the generation of new businesses and investments in Ireland Post Brexit. It also explores the possibilities for Ireland to become the new business hub of the European Union.

Based on a pragmatic philosophy and through a mixed methodology, the relevant information was analysed, and professionals in the field were surveyed. All of this provided data of great importance to explore the aims and objectives, and to answer the questions of this research project.

It was concluded that Alternative Disputes Resolution has an important role in business and in attracting new investments in a Post-Brexit Ireland, and that the possibilities of this country to become the new business centre of the European Union after United Kingdom withdrawal are favourable but not immediate.

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Acronyms

ADR	Alternative Dispute Resolution
APEC	Asia - Pacific Economic Cooperation
CEO	Chief Executive Officer.
ECC	European Consumer Centre
EEC	European Economic Community
EU	European Union
FDI	Foreign Direct Investment
GVA	Gross Value Added
ICC	Irish Commercial Court
ICMA	Irish Commercial Mediation Association
ICT	Information Communication and Technology
IDA	Industrial Development Authority
LRC	Law Reform Commission
ODR	On-Line Dispute Resolutions

Introduction

On January 23, 2013 Prime Minister David Cameron gave a speech announcing his intention to change the role Britain played in the European Union:

“... I know there will be those who say the vision I have outlined will be impossible to achieve. That there is no way our partners will co-operate. That the British people have set themselves on a path to inevitable exit that if we aren't comfortable being in the EU after 40 years, we never will be”

(Guardian Staff, 2013)

Three-and-a-half years later, the vote has come and the British people decided by a narrow margin in favour of leaving the EU. The term that describes the withdrawal of The United Kingdom from the European Union is known by BREXIT, the abbreviation for 'British-Exit.' After a lot of negotiations in the EU parliament, the British-Exit carried out on January 31, 2020, and it was granted with a transition period, which comes to an end on December 2020.

This situation leaves Ireland with a lot of challenges but also great opportunities. On October 2019, the minister of Justice of Ireland, Charlie Flanagan, launched the Brexit Legal Services Implementation / Coordination Group as an initiative of the Bar of Ireland and the Law Society, supported by the Government in "Promoting Ireland as a leading centre globally for international legal services" (The Bar of Ireland, 2019)

Speaking at the inaugural meeting of the Group Micheál P O'Higgins SC said:

“The UK's departure from the EU offers a real opportunity to increase the market for international legal services in Ireland. The appeal of Ireland post-Brexit builds on our status as an English-speaking common law country and remaining EU Member State with

internationally reputable and enforceable legal and courts system. This Implementation Group will play a vital role in realising the full opportunity that this scenario presents”

(Therese, 2019)

According to Nicholas Butcher (Managing partner of Maples Group) in an interview for the New York Times:

“Ireland Post-Brexit will become the largest common law jurisdiction in the EU. Ireland’s court system is efficient, pro-business, and the legal professional services sector has gained a strong global reputation as a centre of excellence. Multinationals should remember the benefits of the Irish legal sector can offer when considering basing operations abroad” (Butcher, 2019).

Alternative Dispute Resolution (ADR), which is considered as part of the Irish Legal System, is one of the benefits that the Irish legal sector can offer. “It is the procedure for settling disputes without litigation, such as conciliation, arbitration, mediation, or negotiation. ADR procedures are usually less costly and more expeditious” (Findlaw 2020).

Based on the above, the purpose throughout this dissertation will be to make a critical analysis of whether the legal system, specifically the Alternatives in Dispute Resolution are a key factor that can help and promote the creation of new investments, new business in a Post-Brexit Ireland.

1. Background of Dissertation

As an international student I think it is important to learn and study the culture of the country where you are living. Ever since I moved to Ireland I started to learn its history, customs, politics and economy. This led me to understand the close relationship that Ireland has had with the United Kingdom and to ask myself to what extent the UK's departure from the EU could benefit or affect this country.

My background as a psychologist and studies in Alternatives in Dispute Resolution led me to explore the roots of a conflict and, based on them, look for the best ways to solve it. The study of the master's degree opened the door for me to explore the importance of the resolution of national and international commercial conflicts, the alternatives that exist, their pros and cons, their scope and limitations.

The topic of this research study is based on the above concerns, to explore if the Alternatives in Commercial Disputes Resolution can be a factor that influences business for the benefit of the economy and the Irish legal sector, and if based on this, Ireland can emerge as the new business centre of the European Union after Brexit.

2. Aims and Objectives

This dissertation aims to analyse the role of Alternative Dispute Resolution in commerce in order to find whether it is an important element for the generation of new businesses and investments in Ireland Post Brexit. It also will try to explore the possibilities that Ireland has in becoming the new business hub of the European Union.

In other terms, are the Alternatives in Dispute Resolution an important factor which can help to generate new businesses and investments in Ireland?, and what are the possibilities for Ireland to become in a new business centre in European Union after Brexit?

Ireland is a neutral country, which has a common law and English-speaking language as its first language; all of this can outline it as a hub for new business, investment and commercial settings after the United Kingdom leaves the European Union. Taking this into account, the dissertation will analyse if, in order to generate new business, the current offer of dispute resolution alternatives provided by Ireland may be a factor to attract new investments and businesses.

Business and investments are vital for the economy of any country, therefore to obtain a more accurate picture of the role that Alternative in dispute Resolution play in business and if these would be a factor in generating these in a post-Brexit Ireland, this dissertation is based on the following objectives:

- To establish the role and the importance of Alternative Dispute Resolutions Principles in commerce and business.
- To analyse whether Alternative Dispute Resolution is a factor to generate new investments in Ireland Post- Brexit.
- To explore the possibilities of Ireland to become in the new business hub of the EU after Brexit.

3. The Scope and Limitation of the Research

The scope of this project is to explore whether the Alternative in commercial Disputes Resolution can be an important factor when doing business to generate new investments in Ireland Post-Brexit. In order to find this out, this research project covers topics like Alternative Dispute Resolution in Commerce, Ireland and European Union, Ireland as a Business Hub and Brexit, and Alternative Dispute Resolution Principles as a factor in generating new investments in Ireland Post-Brexit.

The main limitation of this research project is that Brexit is an international issue that concerns many countries, economies, market movements, with different sectors and factors involved. Therefore, this study covers a very particular part regarding a global situation.

Contribution

The study contribution is the confirmation that the Alternatives in conflict resolution work. They are effective when negotiating deals, therefore more international companies are using them. The study also establishes that Ireland has a highly reputable legal sector that should be used to its advantage to generate new investments, by outlining Ireland as a new Business Centre within the European Union after Brexit.

Dissertation Road Map

This research project has been divided into seven parts for better access to the information in this document.

Introduction

In this section there is a small opening to the research topic, the background of the study, Aims and Objectives, the Scope and Limitation of the Research, this Dissertation Road Map also being part of it. In other words, the main points of information to enable the understanding of the context and purpose of the research.

Chapter 1 - Literature Review

This chapter contains the most relevant literature that addresses information and aspects that our study topic involves, and seeks to provide a broad overview of it.

Chapter 2 - Research methodology and Methods

This chapter aims to explain why and on what philosophy, approach, design strategy and ethical considerations this research project was based for it to be carried out.

Chapter 3 - Presentation of the Data

Chapter three seeks to present in a graphical and quantitative way the results obtained to support our dissertation.

Chapter 4 - Data Analysis / Findings

In this chapter, the quantitative results are analysed in a descriptive way that provides the key to a better understanding of the data obtained.

Chapter 5 - Discussions

This chapter deals with the theory and the findings obtained in a comprehensive and descriptive way in the points previously exposed.

Conclusions

After the entire investigation, this section contains the conclusions that this study reached based on the procedures carried out during the process.

Chapter 1 - Literature Review

1.1 Introduction

The literature review of this dissertation aims to explore the use of principles of Alternative Dispute Resolution from a commercial point of view in order to make a critical analysis regarding whether the use of these principles play an important role when generating new business and investments in a Post-Brexit Ireland.

The first chapter seeks to explain what disputes and conflicts are and if there is a difference between them, and focuses its attention specifically on commercial disputes or conflicts.

Chapter two focuses on analyzing Alternatives in Commercial Dispute Resolution, as well as providing examples that lay the groundwork about the importance of its use in business.

The United Kingdom's exit from the European Union will affect and challenge all its members but it will also bring benefits. Therefore it is important for this dissertation to explore the history and role of Ireland as a member of this community, a topic that we will address in chapter three.

The fifth chapter will explore Ireland's role as business hub in order to establish if Ireland is prepared to respond after Brexit.

In the last chapter, this dissertation will try to establish whether Alternatives in Dispute Resolution can be an important factor in generating new businesses in a post-Brexit Ireland, and shape it to be a new business centre within the EU.

1.2 Alternative Dispute Resolution

Alternative dispute resolution (ADR) refers to a variety of processes or techniques that help parties settle disputes without a trial. These processes are generally confidential, informal, more collaborative and less stressful than traditional court proceedings. ADR is a process in which a neutral third party helps the parties who are involved in a dispute come to an agreement (Shonk, 2019).

In its 2008 Report on Alternative Dispute Resolution: Mediation and Conciliation, the Law Reform Commission defines ADR as:

“A broad spectrum of structured processes, including mediation and conciliation, which does not include litigation though it may be linked to or integrated with litigation, and which involves the assistance of a neutral third party, and which empowers parties to resolve their own disputes” (LRC, 2008 P 40).

Alternative Dispute Resolution in its original form was presented as the different techniques that could be counted on to resolve conflicts or disputes, Alternatives to the traditional dispute resolution mechanism: Litigation.

However, due to its constant growth and its prevalence within the legal framework, it must be defined as a highly appropriate technique for the resolution of disputes as an alternative to litigation (Fiadjoe, 2004, P 2).

Nevertheless, the different processes that ADR embrace are Negotiation, Mediation, Arbitration and Conciliation (Fiadjoe, 2004, P 2) while the two most common forms of ADR are arbitration and mediation; negotiation is almost always attempted first to resolve a dispute.

Although many authors or institutions like Harvard have discussed it, and styles and models of negotiation have been established for it, negotiation is more a tool or skill that can be developed. This is of utmost importance in business as well as in daily life that a regulated process is available, unlike the other alternatives.

Goldberg (et al 2012) explains that the advantage of negotiation, compared to the processes which use a neutral third party, is that this method gives the parties the benefit of controlling the course and the solution. If the parties do not reach consensus they would agree to place the dispute in the hands of a third party, in which they cede some control of the process but not the solution.

An important factor that distinguishes the processes in which a third party is involved is that this third party is there to help the disputants to reach their own solution, as in the case of mediation, or to impose a solution as in the case of arbitration or adjudication made by a tribunal or judge or known as arbitrator (Goldberg et al., 2012).

The control over the outcome is a significant criteria for the differentiation of processes which involve a third party, but a distinction between different processes in dispute resolution is more complex than the previous description. This is because the process is affected by variations in application (Rifkin and Sawyer 1982) In mediation for example, even though the parties are in control of the outcome, you may lose this control if the mediator is authorized to make a recommendation in case you cannot reach an agreement cf. Rifkin and Sawyer, 1982, et al., 1990 (cited at Goldberg 2012).

The success of Alternative Dispute Resolution has led to an increase in its usage as it has proven to resolve many kinds of conflicts. It is applicable both individually and collectively, and it is worth noting the cooperative nature of the technique itself, which is committed to the construction of a solution that benefits all parties involved, sectors and/or fields where it is applied.

1.3 Commercial Disputes

The word 'conflict' is derived from two Latin words *con* (together) and *fligere* (to strike). To take a straight definition from The Concise Oxford English Dictionary, conflict means a 'fight, struggle, collision'. (Fiadjoe 2015, p 8), while in the Oxford dictionary we can find the word "dispute" defined as an argument between two people, groups or countries; discussion about a subject on which people disagree.

The Irish Law Reform Commission states that:

"A dispute is a product of unresolved conflict. Conflict can simply be viewed as the result of the differences which make individuals unique and the different expectations individuals bring to life. While conflict is inevitable, disputes need not be"

(LRC 2008, p33).

Therefore, conflict occurs when two or more parties differ in the way of thinking about a topic, and the dispute is the fight that arises when a conflict is not resolved, or no agreement is reached.

Michael L. Moffit and Robert C. Bordone (2005) explained that one of the differences between conflict and dispute can be provided by the magnitude, but the work of differentiating between them does not deserve the effort. However, what we should focus on is how the parties involved are experiencing the problem, their points of view and the processes they are willing to go through to solve the problem.

Usually disputes are about avoiding, about not being distracted from our daily lives or from what we would rather be doing. They lead us to be in touch with people who are not in our list of favourites, and because it generates costs and resources that we would rather save or simply we do not have it. Other way to handle disputes is to facing it as soon as it arises, finishing the situation even if it means giving into something we do not agree with (Moffit, Bordone, 2005, p.1).

Not all conflicts or disputes can be prevented; some disputes are inevitable due to the fact that sometimes the different interests of each person are in conflict with those of another. Conflicts do not necessarily have to be a problem - on the contrary, if the parties involved are willing to talk about their different interests, make commitments, and reach mutually beneficial agreements, the conflict leaves us with constructive consequences and helps organizations or people grow and change (Ury, Brett, Goldberg 1988, P 141).

Due to the fact that conflict is something inherent to the human being, there are all kinds of disputes in which people may become involved. Conflicts and disputes occur when two or more parties differ on some subject without being able to reach an agreement, such as a difficult divorce, the dispute for an inheritance, the purchase or sale of a automobile or property, medical negligence - even a disagreement between governments of different countries, etc. However, for the purposes of this analysis, this dissertation is focused on what it is known as Commercial Disputes.

A commercial dispute can be defined as any conflict that arises between two business entities; however, this brief definition does not cover the complexity that commercial disputes have. No business wants to be involved in any commercial dispute; however disputes are unavoidable, and can arise from various situations, such as breach of contract, failure to respect intellectual property or many other different reasons. They vary greatly in complexity, resulting in legal actions for businesses and the parties involved (Bremer Whyte Brown & O'Meara, 2018).

Nowadays, business relationships are becoming more and more complex as a consequence of the rapid growth of exchange of services and common goods. The second half of the 21st century has been significant in terms of the expansion of global trade, therefore a lasting future is envisioned in the emergence of trade disputes, which frequently arise between traders and government authorities in the entities in which they establish new businesses (APEC, 1999).

According to Sagartz (1998), due to the demand and growth in business and trade between different nations, the number of disputes between international parties has been increasing. International trade disputes can become quite significant conflicts with serious political and economic consequences for the countries involved. Therefore, it is necessary to have a faster and more effective resolution of commercial disputes through extra-judicial mean, instead of litigation in the court (Sagartz, 1998, P 675).

It is also of utmost importance that trade disputes involving parties of different nationalities who want disputes to be resolved through any method of alternative dispute resolution, take into account cultural backgrounds. One of the essential factors when seeking to prevent real conflicts with international trading partners is their culture. A positive result of the chosen method in the resolution of disputes is therefore largely dependent on the cultural backgrounds of the parties involved.

It does not matter if the ADR method which has been chosen is negotiation, mediation, conciliation or arbitration - if the chosen third neutral party for the resolution is familiar with the cultures of the disputants and agreement may be reached more quickly (Sagartz 1998, P 675).

The consequences in a commercial dispute can be enormous for the parties involved and can be divided into two – the direct ones that have a financial impact and the indirect ones that result in a loss of reputation, loss of key personal or staff, and/or loss of long-term business relationships.

There are three dimensions that legal dispute has: legal, commercial, and emotional (LRC, 2008). In this sense, the advantage that ADR processes such as mediation and conciliation have established is that they provide the opportunity to consider and resolve all these dimensions in a private and confidential environment in order to protect business relationships and business deals. While, for their part, commercial disputes that are dealt with in litigation have the obligation to preserve

money, finances, assets or personal investments, they invoke the legal right and hinder the continuation of commercial relations (LRC 2008, P 231,232).

In a commercial dispute, while there are two parties to a conflict, each party may have different interests which influence their position in the process. Negotiation between the parties to the conflict is likely to be unsuccessful, and in fact this may not even begin without an effective pre-negotiation process. The pre-negotiation refers to the development of the common perception of the problem, the generation of a minimum amount of trust, the appreciation of the benefits of the negotiation and the costs of the alternative action to the parties involved (Ury, 1987 P 226).

1.4 Alternative Dispute Resolution in Commerce

According to the international company PricewaterhouseCoopers (PWC), commercial disputes are always bad news for companies and can have a profound impact on profitability, business viability, and the preservation of their investments and finances. The consequences of a trade dispute can scare investors, divert resources and even paralyse the company.

Throughout the world, societies have created different approaches to resolve disputes (Fisher 2017). Civil and common law address processes to establish expert opinions in various ways to improve the efficacy in reaching a solution to a dispute. Being efficient is not just about improving the collaboration among those involved, it is more about recognising differences and finding and generating accurate methods of solving disputes when they arise.

Some cultures have their own methods of conflict resolution without these being properly called mediation or without being considered formal processes. Other societies have preferred to order alternative processes before or during litigation to ensure the participation of all involved and overcome resistance of the litigants or those who advise them, in order to minimise the confrontation (PricewaterhouseCoopers and Fisher, 2017).

Most dispute resolution has a confrontational process based on legal rights, but a highly conflicting process before trial can work against efficient resolution. Extended relationship with the advisors, and the cost and time involved, make resolution more difficult to achieve.

Usually business leaders will focus on reducing costs or the impact of a large and tedious litigation process in a dispute, therefore alternative dispute resolution processes often produce better and faster results and at lower cost, which could be attractive for different companies (PricewaterhouseCoopers and Fisher, 2017).

There is no doubt that Alternatives in Conflict Resolution have gained importance for some years now, therefore trade organizations in the European Union have had to take initiatives to recognize them:

“Several international organisations, such as the International Chamber of Commerce (ICC) and the United Nations Commission on International Trade Law (UNCITRAL), are taking efforts to establish an infrastructure of laws, rules and procedures which recognises ADR clauses and settlements reached in ADR (alternative dispute resolution) proceedings. These efforts are aimed at promoting certainty and consistency in the use of ADR processes and, ultimately, at expanding the options available to parties for the resolution of international commercial disputes” (Wolski, 2012)

In business, building trust between the parties is an ideal process, but in international transactions, parties have different backgrounds but above all differences in the legal sense. This leads to parties not having an understanding of the other, and as a result generates a feeling of distrust when doing business. ADR can and will generate an understanding and trust that can produce reasonable results for each party (APEC Secretariat, 1999).

The use of ADR to solve Commercial Disputes has become a global phenomenon, at least in terms of commercial mediation, as evidenced by the United States, where international companies such as Coca Cola, General Electric and Warner among others, have established their commitment to explore the use of ADRs before reaching a Litigation process (Law Reform Commission, 2008).

The Law Society of Ireland explains that there are three simple benefits that ADR can provide: Privacy, Cost and Speed (Law Society of Ireland, n.d.). No one wants to get involved in a dispute, but for companies, it is likely to happen at some point. So in order to prevent and handle commercial disputes, the most effective mechanism to reduce and resolve commercial conflicts is to incorporate clauses of Alternative Disputes Resolutions in commercial contracts and corporate government policies (LRC 2008, P 233,234).

Resolving commercial disputes is a topic that countries take very seriously. The fact that trade disputes can be resolved within each jurisdiction in a simpler way is a key factor to creating new investments, retaining established business and therefore creating economic growth.

This is evident on the European Union website, (European Commission, n.d.) where proposals are given on how to resolve trade disputes through the use of ADR. These options include:

Online Dispute Resolution - a platform available in several languages created to allow merchants and consumers resolve disputes related to online purchases with the help of a neutral body;

Alternative Disputes Resolution for consumers – This lists the ADR principles for the resolution of disputes and provides a list of bodies by countries for consumer disputes and traders in EU Countries;

European Small Claims procedure – This explains how to make a claim against another business, an organisation or a customer where the trader is in a different EU country; and ECC-Net - a network created by the European commission that explains one's rights as a consumer, and to help one settle a dispute with a seller based in another EU country.

The European Union has created a commission for consumer and trader protection. This commission, in its statute of regulation of 2015 with respect to the Alternatives in Resolution of commercial disputes (S.I. No. 343 of 2015), contains several points of importance that we mention below:

The commission is designated as the state's competent authority and will encourage consumer and business organisations to make publicly available the list of ADR entities on their websites and any other means it deems relevant.

The commission must guarantee the correct information so that consumers and traders can access the ADR procedures to settle disputes.

The commission will be responsible for creating the necessary measures to encourage consumer and professional organisations to understand ADR processes, promote their use, and provide

information on competent entities that can carry out these processes, covering specific border entities for each sector.

As of July 9, 2018, every four years the commission will publish and send to the European Commission a detailed report on the operations of the accepted entities. This report should identify improvements in ADR practices, situations that hinder its proper functioning, and recommendations to improve its effectiveness and efficiency (EUROPEAN UNION (Alternative Dispute Resolution for Consumer Disputes / Regulations 2015).

The European Union is not alone in its commitment regarding the resolution of trade disputes. Members of the Asia - Pacific Economic Cooperation (APEC) have a network in which trade disputes between them can be settled through the ADR principles, especially that of Arbitration, which has begun to be more used by this region (APEC Secretariat, 1999)

Traditionally, it has been found that there is a cultural preference for dealing with commercial disputes through the processes of Mediation, Negotiation, and Conciliation. The Arbitration process is effective, but Asia Pacific countries need to reach agreements in which the courts of each jurisdiction intervene as little as possible, conducted under rules that change with jurisdiction. APEC seeks and proposes that each government participates by harmonizing the legal system regarding business (APEC Secretariat, 1999).

The potential of settling commercial disputes without reaching litigation for consumers, retailers, and the administration of justice in general, is quite considerable.

The nature of the less formal ADR processes and more conciliatory focused procedures between parties maintains a business relationship between the client and the provider even after the conflict has arisen.

Having access to an alternative with an easy process to carry out that is beneficial and fair strengthen consumer confidence, businesses receive feedback on their products, quality and service, and they obtain advantages over competitors by demonstrating that they save costs in legal services

or legal proceedings (Application of Directive 2013/11/EU of the European Parliament and of the Council on Alternative Dispute Resolution for Consumer Disputes).

1.5 Ireland and the European Union

European integration, apart from transforming all member states within the European Union, has also had a major impact on countries on its periphery. As a result, trade in products and services have become easier, and the spread of global governance and the rule of law have been established (Kraiser and Varsori, 2010).

In Ireland's case, authors like Gavin Barret (2008) considered that in retrospect, the price Ireland had to pay for belonging to the European Union went beyond any economic adjustment or institutional reforms. Before Ireland could have any benefit from its accession to the European Union, it had to deal with the devastating effects of the oil crises, as well as inflation, economic recession and large-scale unemployment (Gavin Barret 2008, P6)

After a referendum in which 83% of the voters agreed, Ireland became a member of the European Economic Community in 1973, a precursor to the European Union as we know it today. Membership to the EEC was a key movement in Ireland's trajectory as an independent nation. Ireland was a free country before becoming a member of the EEC; however it had economic dependency with the United Kingdom, which membership of the EEC would help it break free from.

Gradually, almost all aspects of living in Ireland have seen improvement since then, in the areas of education, employment and travel, and especially in the way in which companies carry out the process of buying and selling their products and services, aspects that are now part of Ireland's daily commercial life (European Commission, 2016).

Since the "Celtic Tiger" era, Ireland has been known for its evident economic advances, Ireland's arrival to the EEC meant the availability of large European funds for investment in infrastructure, transportation and technology, transforming the country and placing it on a level playing field with its European partners.

Ireland's entry into the European Union had various impacts that affected its development in different ways according to the European Commission, (2020) which we will see below:

Transfers: Ireland received considerable contributions from the EU which were very significant in terms of going towards improving both human capital and infrastructure, and promoting new projects of national industry and research and development.

Reform in the Public Finance System: transfers received from the EEC (European Economic Community) caused Ireland to change its public finance system toward a more modern one. This led to high-tech exported manufactures, long-term planning, multi-year budgets, systematic audits and the introduction of effectiveness evaluations.

Macroeconomic Stability: Ireland ratified the Maastricht Treaty, which helped it to impose limitations on its fiscal policy and also allowed it sustained financial discipline over time.

Entry into the Common Market: The elimination of trade and movement barriers in the EU made the Irish economy open to the forces of external competition, which encouraged companies established there to achieve a higher rate of competitiveness.

Ireland's entry into a unified market was one of the factors that helped it successfully attract foreign direct investment and also increase the competitiveness of local companies.

These factors have been key to the transformation that we have experienced in the Irish economy, laying the foundations for growth, guided by exports and foreign direct investment (European Commission, 2020).

However, and according to Schwartzman (2016), that European support and the consequent transformation of the island did not translate into unconditional endorsement of the EU. In fact, traditional Euro-scepticism was shown in the rejection by referenda of two European treaties, the

Treaty of Nice (2001) and the Treaty of Lisbon (2008), and it wasn't until in October 2009 that Ireland was to reaffirm its allegiance to the union.

In times of need, EU policy, legislation and funding has helped improve Irish life in some of the most important fields, such as Economy and Jobs, Education and Training, Agriculture, Environment, Travel, Research and Innovation.

Thanks to the incorporation of technological progress and innovation is achieved by ensuring that an economy that has per capita growth does not reach a steady-state but continues to grow throughout the years.

With the progress and improvements at the technological level, the accumulation of diminishing returns on capital is continuously counteracted, therefore labour productivity increases, both directly due to improvements in technology and indirectly due to the additional accumulation of capital that these improvements make possible (Powell, 2020)

Since Ireland was rescued from the 2008 economic crash, along with other members of the European Union, it has made remarkable progress in financial and employment terms. If the Irish country continues to reform in other areas, it promises high-impact economic growth. The improvement of the reforms in areas like social and environmental development, production, investments, will provide the basis for its sustainable development and internal growth (European Commission, 2020).

Ireland left the EU rescue plan behind in December 2013 and is again a financially sovereign country. In 2016, debt continued to decrease and the public deficit remained under control. The government implemented an austerity policy based on a rise in taxes, a decrease in the salaries of officials, and budget cuts.

International investors have regained confidence and the banking sector has stabilised. However, according to stress tests carried out in 2016 by the European Banking Authority, banks remain vulnerable to crisis due to low profitability (European Commission, 2020)

The unemployment rate fell again in 2016, which lasted until 2017, and agriculture remains a key sector. The government tries to strengthen its role in the economy through its modernisation and the development of food processing industries (beef, dairy products, potatoes, barley, and wheat).

Ireland has achieved its recent industrial development thanks to a deliberate policy of promoting leading export companies, and because it has proposed alluring investor deals.

If Ireland manages to reduce its public and private debt and its dependence on volatile corporate taxes, the result could increase the resistance of its economy to important external situations such as Brexit, and offer sustainability of public finances.

According to the European Commission in its 2020 report, Ireland experienced high economic growth in 2018. GDP grew by 8.2%, considered a very high rate for an economy, but was driven by a significant measure of activities of multinational companies (European Commission, 2020).

Ireland has undergone great transformations throughout its history to reach the position it currently has. It has been a process of years in which it has produced profound changes to improve its economic strategy.

For the most part, the Irish economy has sustained growth over the years in high rates of investment, technological development, and innovation, and this is evidenced by the high rates of growth in production, which have generally been derived from exports, to which Ireland's membership in the European Union and the single currency have contributed. (Powell, 2020)

Ireland's relationship with the European Union has not been the simplest in economic or political terms, it can be said that both parties enjoy a cordial and open relationship in order to generate benefits that have results not only for Ireland, but for all the countries within the union.

1.6 Ireland as Business Hub and Brexit

The Industrial Development Authority (IDA) was founded in 1949 and is the agency responsible for attracting and retaining inward foreign direct investment (FDI) into Ireland. In the words of its CEO Martin Shanahan and his Chairman Frank Ryan, thanks to a combination of historical, cultural and social trading factors, generating business with the world is something natural for the Irish (IDA Ireland, 2015).

For decades companies around the world have called Ireland their home when it comes to business, Ireland's relationship with international companies has endured over time and this is reflected in the numbers that provide compelling information:

“The relationship between Ireland and overseas companies has stood the test of time, with the numbers providing compelling evidence; there are over 174,000 people employed in foreign-owned enterprises in Ireland, representing almost one in ten workers in the economy. The relationship has benefitted both Ireland and our valued investors, and the evidence for this is in the experiences of individual firms who have come here, many of whom have linkages with Ireland over many decades” (Shanahan, Ryan IDA Ireland, 2015).

If it is sought to favor an improvement in the productivity and economic development of any country, judicial reforms aimed at quality, speed and access to the judiciary are of utmost importance.

Judicial efficiency is a factor of vital importance for the productivity of a company; this is proved by Ashan 2013 (cited at Doing Business 2020) who uses Indian business data to correlate the speed of contract execution and tariff liberation. This data suggests “that the gains in productivity from a reduction in input tariffs are highest for firms in economies with the most efficient courts”.

In an interview with the Irish Independent, Mark Walsh, head of law firm Eugene F. Collins, said:

“The Irish legal system could become the jurisdiction of choice for dispute resolution in the EU following the UK's departure from the trading bloc(...) Ireland's legal system was now unique within the EU after the UK left the bloc”. According to this newspaper, these words echoed the sentiments of Frank Clarke, Chief Justice in 2018, who believed that Ireland could emerge as one of the centres for conflict resolution after Brexit. (Mulligan, 2020)

Frank Clarke in his paper for The Institute of International European Affairs (IIEA) entitled: 'Ireland as a Post-Brexit dispute resolution centre', explores the different challenges and opportunities of the Irish legal System and considers it as one of the most suitable places for the European Union in terms of Dispute Resolution (Clarke, 2018).

Clarke (2018) explains that before discussing the opportunities Brexit leaves for Ireland, it is necessary to discuss the challenges regarding the legal area. In the EU, taking into account the United Kingdom, there are four jurisdictions that are substantial in terms of common law; the first and largest is the United Kingdom, followed by Ireland, Cyprus and Malta.

Cyprus largely has a common law, however its public law derives from civil law, therefore it describes it as a mixed law, just as in Malta, which although it had a civil law, adopted customary law practices during the British domain. Ireland for its part has a common law by tradition, which means that in addition to the statutory law, decisions of the Irish High Courts are a source of law and are linked to other courts. The same system is managed by other countries such as the United States of America, Hong Kong, Canada, New Zealand, Australia, and to some extent South Africa (Clarke 2018).

The challenges which this will bring are considerable. Most European Union enactments must, of course, pass both the Board of Ministers and the European Parliament. Indeed nowadays both of those bodies have a significant majority from the civil law tradition. It is without doubt the case that

the making of European enactment which can fit, without unintended results, into the lawful arrangement of part states with varying legitimate conventions has continuously been a challenge.

Apart from the challenges, Clarke (2018) visualises two big opportunities in Terms of Law such as: Harmonisation and opportunities in the Legal Sphere.

Harmonisation is the process of creating common standards across the internal market. Though each European Union Member State has the primary responsibility for the regulation within their jurisdiction and consequently each has its own laws:

“One of the advantages of the Harmonisation of laws within the European Union and, in particular, the measures which govern judicial co-operation in a range of civil and commercial matters between EU member states, is that there is, throughout Europe, an increasingly sophisticated system to ensure for the orderly conduct of any form of litigation involving more than one member state and, indeed, in many cases, involving a member state or member states and third party countries” (Clarke 2018)

In the legal sphere, Post-Brexit Ireland will be the biggest common law nation inside the European Union, featuring a completely common law framework as opposed to a mixed system, which may result in opportunities. This is especially so within the setting of exchanges or cases which include common-law nations who wish to do commerce inside the EU in a lawful framework with which they are recognizable but where European rules are counting, in specific, rules which grant Europe wide recognition (Clarke 2018).

It is understandable that the UK has already established a corporate recovery model and is a leader in it; however the game is about to change when Brexit is carried out, because the English Courts will not have the recognition of Europe while the Irish courts will Clarke (2018). The Dublin Commercial Court, which is a division of the High Court, has developed a great reputation for handling international litigations. This reputation is a vital component, and should not be underestimated. On the contrary, it must continue to be maintained and increased if Ireland, with the

valuable numbers of opportunities it manages; it is to be promoted as an International Centre for Dispute Resolution.

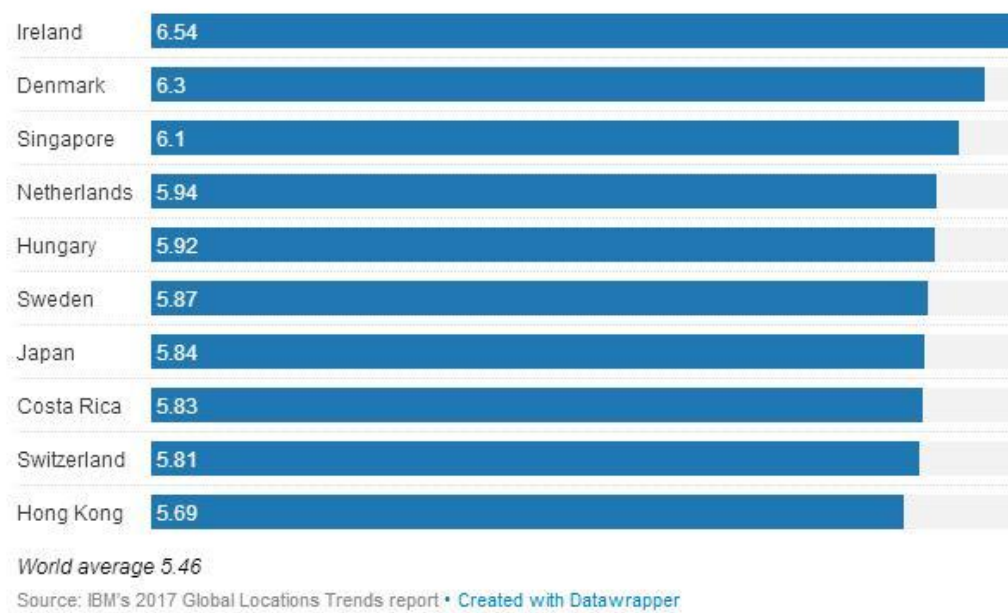
The Irish Department of Business, Enterprise and Innovation recognizes that Foreign Direct Investment (FDI) is an extremely important factor in building Ireland's present and future economy. Its contribution is considered to be far-reaching and it is credited with at least 20% of all Irish private sector employment. It promotes innovation and research as well as generating commercial activity and therefore a favourable economy (Irish Department of Business, Enterprise and Innovation, 2015)

In August 2017, The Irish Times newspaper published an article mentioning that Ireland was named for the sixth consecutive time the best country in the world when it comes to attracting Foreign Direct Investment.

“Ireland being named as the best country for high-value FDI for six years in a row is excellent news and will assist us greatly when making the case for Ireland in boardrooms across the world.” Martin Shanahan 2017 (Cited at Taylor, 2017)

According to this newspaper, the IBM's 2017 Global Locations Trends Report shows that from a list of countries such as Denmark, Singapore, the Netherlands, Hungary, Sweden, Japan, Costa Rica, Switzerland and Hong Kong, Ireland was in the top of it for high-value FDI (Taylor 2017).

Figure 1



The Irish government has achieved for years a coherent development of policies that encouraged foreign direct investment, and for this reason it has managed to open international markets and generate credibility in the European Union. The government continues to work towards the generation of policies that benefit the investment of International companies in Ireland and is based on three key areas to create a real difference such as:

1-International Talent attraction and growth

2-Place-making, dynamic and globally connected city regions as attractors of investment, and positioning Dublin as the leading European hotbed for start-ups fast growing firms and talent.

3-Connected world leading research: Science, technology & innovation systems (Irish Department of Business, Enterprise and Innovation, 2015)

In 2018, according to the European Union Website (2020) the most important sectors of the Irish economy were industry (36.5%), information and communication (12.1%) and wholesale and retail trade, transport, hospitality and catering (11%, 7%) and the public administration, defense, education, health and social services (10.5%). Intra-community trade represents 50% of Ireland's

exports (Belgium 13%, Germany 7%), while non-EU trade has destinations such as the United States (28%) and Switzerland (5%). Regarding imports, 64% comes from EU member states (Germany 12%, France 12%), while non-EU imports come from countries such as the United States (17%) and China (4%) (European Union, 2016) and Doing business 2020 report shows that Ireland's economy ranks 24th globally for doing business, just below Germany and Canada (World Bank Group, 2019).

Figure 2

Rank	Economy	DB score	Rank	Economy	DB score	Rank	Economy
1	New Zealand	86.8	65	Puerto Rico (U.S.)	70.1	128	Barbados
2	Singapore	86.2	66	Brunei Darussalam	70.1	129	Ecuador
3	Hong Kong SAR, China	85.3	67	Colombia	70.1	130	St. Vincent and the Grenadines
4	Denmark	85.3	68	Oman	70.0	131	Nigeria
5	Korea, Rep.	84.0	69	Uzbekistan	69.9	132	Niger
6	United States	84.0	70	Vietnam	69.8	133	Honduras
7	Georgia	83.7	71	Jamaica	69.7	134	Guyana
8	United Kingdom	83.5	72	Luxembourg	69.6	135	Belize
9	Norway	82.6	73	Indonesia	69.6	136	Solomon Islands
10	Sweden	82.0	74	Costa Rica	69.2	137	Cabo Verde
11	Lithuania	81.6	75	Jordan	69.0	138	Mozambique
12	Malaysia	81.5	76	Peru	68.7	139	St. Kitts and Nevis
13	Mauritius	81.5	77	Qatar	68.7	140	Zimbabwe
14	Australia	81.2	78	Tunisia	68.7	141	Tanzania
15	Taiwan, China	80.9	79	Greece	68.4	142	Nicaragua
16	United Arab Emirates	80.9	80	Kyrgyz Republic	67.8	143	Lebanon
17	North Macedonia	80.7	81	Mongolia	67.8	144	Cambodia
18	Estonia	80.6	82	Albania	67.7	145	Palau
19	Latvia	80.3	83	Kuwait	67.4	146	Grenada
20	Finland	80.2	84	South Africa	67.0	147	Maldives
21	Thailand	80.1	85	Zambia	66.9	148	Mali
22	Germany	79.7	86	Panama	66.6	149	Benin
23	Canada	79.6	87	Botswana	66.2	150	Bolivia
24	Ireland	79.6	88	Malta	66.1	151	Burkina Faso
25	Kazakhstan	79.6	89	Bhutan	66.0	152	Mauritania
26	Iceland	79.0	90	Bosnia and Herzegovina	65.4	153	Marshall Islands
27	Austria	78.7	91	El Salvador	65.3	154	Lao PDR
28	Russian Federation	78.2	92	San Marino	64.2	155	Gambia, The
29	Japan	78.0	93	St. Lucia	63.7	156	Guinea
30	Spain	77.9	94	Nepal	63.2	157	Algeria
31	China	77.9	95	Philippines	62.8	158	Micronesia, Fed. Sts.

The Irish legal sector has more than 30 years of experience promoting Ireland as a country where business can be done, successfully playing a part in helping the country lend itself to foreign direct investment.

In 2018, The Bar of Ireland created a proposal that sought to assist the Irish government after the United Kingdom left the European Union. It aimed to minimise the impact on trade and the economy, and to ensure that Ireland's economy continued to remain competitive.

This proposal is a consensus among stakeholders in the legal sector, such as the Law Society of Ireland, The Bar of Ireland, The Dublin solicitors Bar association and a number of leading law firms like William Fry and Maples among others (The Bar of Ireland, 2018). Supporting the IDF strategy and companies already doing business in Ireland, and encouraging international companies to make Ireland a resource for the provision of legal services including Conflict Resolution Alternatives, are some of the main objectives of this proposal.

According to the proposal (The Bar of Ireland, 2018) the Irish legal services sector generates around €2.46 million per year invoiced, contributes around €1.6 million in Gross Value Added (GVA), employs 18,000 taxpayers and supports the local economy and its suppliers. Therefore, the objectives of this proposal may further benefit Ireland's economic growth by generating more employment and tax revenue.

The main objective of the legal sector is to promote Irish law with government assistance. The government can promote the Irish legal sector as the basis of a system of justice in favour of English-speaking trade and common law, as well as highlight its history of impartiality, judicial integrity, experience and expertise. This helps project the country as the jurisdiction of preference for the law applied to international business, disputes and transactions that previously would choose the English jurisdiction (The Bar of Ireland, 2018).

In the words of Nicolas Butcher, Managing Partner of Maples Group:

“Corporations have long valued Ireland as an English-speaking country, with a highly educated workforce, competitive tax system, and trusted legal system. Ireland offers a very interesting ecosystem given the number of overseas multinational companies, including

massive tech firms, choosing Ireland as a base for European operations. Ireland will remain a very attractive place for international business in years to come” (Butcher, 2019).

Economic, geo-political and legal issues are risks that have been raised by Brexit and have led a number of companies to relocate their UK operations to other jurisdictions within the European Union. It is therefore imperative that Ireland be prepared to identify opportunities and act with due urgency when making decisions in order to promote the country as an attractive business centre within Europe (The Bar of Ireland, 2018).

1.7 Alternative Dispute Resolution Principles as a factor in generating new investments in Ireland Post-Brexit

During the 1990s and the early years of this century, Ireland has experienced an unprecedented economic expansion, and therefore trade disputes have been and will be increasing.

“Conflict is a fact of life even in the best-run organisation. It goes under many names, disagreement, disharmony, dispute, difficulty or difference, but the results of mismanaged conflict are the same: at best unwelcome distraction from a heavy workload; at worst damage which may threaten the very future of the organisation” (Law Reform Commission, 2010)

The Irish Legal Reform Commission acknowledges in its 2010 report that the Alternatives Dispute Resolution Principles are largely considered for the resolution of commercial disputes. Business disputes are unavoidable but the key point for their resolution is how they are handled, and they can have a profound impact on issues of profit and business viability. (Law Reform Commission, 2010)

ADR processes provide many advantages for parties to a commercial dispute, such as considering and resolving all aspects of it, legally, financially, and emotionally. Commercial disputes have a high level of sensible data that the parties do not want to be exposed; therefore their confidentiality is an attractive factor to resolve disputes by these processes. Lastly, the parties involved in a trade dispute seek to reach an agreement quickly and efficiently - virtues that ADR grants. (ECC Ireland 2012)

The recognition that ADR has obtained on a Pan-European level in terms of improving access to justice is undeniable, therefore a transformation has been seen in the legislative framework in Ireland and throughout Europe for these processes at a faster rate.

The European Consumer Centre in Ireland (ECC Ireland) is proof of that. Co-financed by the European Commission and the National Consumer Agency, its main role is to improve consumer confidence in the domestic market by giving information and advice to the public about their rights as consumers, as well as assistance in the resolution of trade consumer disputes.

In Ireland, there are two types of ADR bodies (ECC Ireland, 2012) - private ones that are created by specific businesses, and public ones or ADR providers that have both systems, all of which demonstrate a variety of ADR processes ranging from negotiation to adjudication. The directive for the use and recommendation of these bodies requires that they comply with four fundamental aspects: Impartiality, transparency, efficiency and equity.

According to the European Union (Online Dispute Resolution for Consumer Disputes) Regulations 2015 (S.I. No. 500/2015), ECC Ireland hosts the national ODR contact point, where advisors assist consumers. The ODR Regulation creates an EU-wide platform to enable online resolution of 'contractual disputes' between EU consumers and traders over purchases made online (ECC Ireland, 2018).

ECC Ireland records for example in 2017 a total of 4,108 in which 54% were cross-border complaints, and of which 1,031 were active charges. The registered problems were 37% Air passenger rights, 14% Furniture, 10% Electronic products, 9% Car rental, hotel and accommodation 5.8%. For its part, the Irish Commercial Mediation Association (ICMA), in an article for the Law Society Gazette, reports that although the mediation process is relatively new in Ireland, the available statistics from the Irish Commercial Court indicate that 65% of the cases that have been channelled through a mediation process have been successful. (Admin, 2011)

The spokesperson of the ICMA Austin Kenny, states that despite the fact that mediation is a relatively a new process in Ireland it has had a significant growth in the last year in the number of cases that have gone through it. He also explains that this process, contrary to litigation, can have a more effective and quicker result, negotiating in a range of three to six weeks and that the process itself encourages the repair of relationships where sometimes only an apology or explanation can be the solution of the conflict (Admin, 2011).

In relation to the arbitration process, the legislative framework modified when the 2010 act entered into force. The 2010 Act came into force on the 8 June 2010 and repealed the Arbitration Acts 1954–1998. It resulted in national and international harmonisation of arbitration in Ireland, The UNCITRAL model Law is now which directs the conduct of all arbitration processes in its jurisdiction (ECC Ireland 2018).

The opportunities for Ireland to improve to meet business opportunities in terms of arbitration processes are many. The Irish arbitration process must harness the fact that Irish law is now aligned with international practices and become an effective process that enables its commercial growth. (Carter, 2015)

The report “Corporate choices in International Arbitration” by PWC on 2013 (cited at Carter, 2015) shows that the 84% of the construction sector prefers arbitration and it suited more its needs, 56% in the energy sector and 23% of the financial services sector prefers arbitration when is about resolving international disputes (Carter, 2015).

Nicolas Butcher Managing Partner of Maples Group considered Ireland’s legal sector as efficient and pro-business, with a strong global reputation in the professional legal services. Butcher (2019) explains that the legal sector has a lot of benefits and advantages for international markets, especially for North America since they share not only the same language but a similarity in their common laws, with these similarities undoubtedly offering great value when looking for a jurisdiction. The legal sector is a highly competitive sector and Ireland has very high standards within it, as well as a major initiative that seeks to promote Ireland as an appropriate and convenient hub for international transactions (Butcher 2019).

The Department of Business, Enterprise and Innovation, reports that Ireland continues to attract business from sectors like Science, Financial Services, Engineering, Information Communication and Technology (ICT). There are 200,000 people employed on the 1,200 overseas companies (Irish

Department of Business, Enterprise and Innovation, 2015) these numbers can be translated into opportunities for the Irish legal sector and therefore for ADR.

In other words, more business growth, more probabilities for disputes to arise between the entities involved, and this are where the importance of having a well-established ADR system lies. Since although no company expects or wants to be involved in commercial conflicts, but it is highly to happen at some point, then they will invest in ADR procedures. This is because having a legal sector that offers a range of possibilities to solve the dispute quickly in an efficient and reliable way reduces the risk of losing profits, business relationships or the damage of the reputation.

The legal decisions that international companies make are based on a number of factors, including competition, process efficiency and cost, but as a result of Brexit there will be uncertainty and risks for investors and companies.

However, problems with decision making can be alleviated by choosing an alternative forum to judge disputes (The Bar of Ireland, 2018), so that countries such as France, Germany, Belgium, and the Netherlands are exploring or making significant investments and innovations to increase the attractiveness of their jurisdictions.

The Bar of Ireland in its proposal explains that changes to come will lead to increased demand in the processes for conducting cross-border commercial litigation through the Irish legal system, in its courts or in commercial arbitration, for example (The Bar of Ireland, 2018).

Ireland must ensure that the Dispute Resolution system is in optimal condition so that it can meet international expectations and the needs of both national and international court users. The main drivers for international business are speed and predictability, factors that the Irish legal sector has, but it must further improve its characteristics if it wants to encourage new investors and international businesses to choose to use the system. The Irish legal sector has, nevertheless, great potential for making ADR more attractive to business. (The Bar of Ireland, 2018)

Chapter 2 - Research Methodology and Methods

The terms Research Methodology and Research Method have usually been exchanged in many books or articles; however it is necessary to clarify the difference between them. The term, 'methodology' refers to the philosophy or theory from which the research will be approached, while the term, 'method' refers to the procedures or steps that must be followed to obtain and analyse the data that support or provide more information in an investigation (Saunders, et al 2007).

This chapter aims to present the Methodology and Methods on which this dissertation will be based and the steps that will have to be followed to achieve a complete investigation process, which gives a reasonable and reliable result.

2.1 Research Philosophy

The way in which the researcher sees the world will be important when adopting a research philosophy; the philosophy that will be adopted will be influenced by practical procedures, while the assumptions that will be made regarding the world are what will define the methods used and those that will support a strategy (Saunders, et al 2007).

Pragmatism argues that the most important determinant of the research philosophy adopted is the research question; this lets the researcher avoid engaging in what they consider a pointless debate between concepts like truth and reality (Saunders, et al 2007).

Pragmatism rejects the existence of absolute and unobjectionable truths. On the contrary, it considers that the ideas are provisional and are always subject to change, since future research could modify them (Abbas Tashakkori and Teddlie, 1998).

In this sense, pragmatism reduces what is true to what is useful and considers that the truth of knowledge is specifically found in what has practical value for life. As such, pragmatism is also applicable to economics, politics, education, and law and therefore it is the philosophy that this dissertation adopts.

2.2 Research Approach

This dissertation has an deductive research approach; according to Saunders (2007) the deductive research approach is in which a hypothesis is created and then a strategy is designed to test it (Saunders, et al 2007) A deductive approach is a process of reasoning that flows from a theory/hypothesis to systematic empirical observation to conclusion (Vanderstoep and Johnston, 2009).

Robson (2002 cited at Saunders 2007) explains that there are five steps that deductive research goes through:

- 1- Deducing hypothesis which refers to the establishment of a proposition that can be tested.
- 2- Indicating the hypothesis in operational terms. This step seeks to explain how the variables between two concepts that will be measured.
- 3- Testing the hypothesis means developing strategies to follow to get a reasonable outcome.
- 4- Examining the specific outcome, which means either confirming it, or a requirement that it be modified.
- 5- Modifying the proposals according to findings (Saunders, et al 2007).

The deductive method refers to a specific way of thinking or reasoning, which leads to logical and valid conclusions from a given set of premises or propositions. In other words, a way of thinking that goes from the most general (such as laws and principles) to the most specific (concrete facts). Based on this way of thinking, the conclusions of the reasoning are given in advance on their own premises, so that only an analysis or breakdown of these is required to know the result. This dissertation is based on a Hypothetical-deductive method that refers that it will go from the observation of a phenomenon. An interpretative hypothesis is ventured that is then subjected to comparison by logical deductive reasoning (VanderStoep and Johnson, 2009).

2.3 Qualitative, Quantitative and Mix Methods Research Design

According to Creswell (2007), Qualitative research can be defined as a course of action in which the researcher establishes an integrated point of view that offers a detailed perspective of the sources of a natural environment. An alternative explanation is offered by Corbin and Strauss (2008) that proposes that the process of investigating a specific problem, topic or phenomenon from a point of view that cannot be rigidly coded, is known as a Qualitative research (Corbin and Strauss, 2008, p. 16). For its part, Quantitative research is a structured way of collecting and analysing data obtained from different sources (VanderStoep and Johnson, 2009). Quantitative research involves the use of statistics and mathematics to obtain results. It is conclusive in its purpose since it tries to quantify the problem and understand how widespread it is by searching for results that can be projected to a larger population (VanderStoep and Johnson, 2009).

Mix Methods - Under the names of multi-methods, multi-strategy, or mixed methodology, mixed methods are based on the simultaneous use of qualitative and quantitative methods (Bryman, 2006). Mixed methods provide flexibility, due to the fact that they conceptualize the term integration, and for this reason it has been used by different researchers from different disciplines, although its use does not have the same acceptance in all of them (Tashakkori and Creswell, 2008).

The Mix Methods design has been chosen for this dissertation because it is systematic integration of the quantitative and qualitative methods in order to obtain a more complete picture of the phenomenon.

2.4 Research Strategies

The research strategy that this dissertation is going to follow is The Survey. The survey is widely used strategy in the area of business and business management; it is generally associated with the deductive approach and can answer many types of very common questions, which is why the use of exploratory and descriptive research is very normal. Another of their attributes that makes them so

popular is that they provide a great amount of information since they cover considerable populations and they do it in a more economic way (Saunders et al, 2007) The data obtained from a sample in a survey are standardized, that is, they follow the same pattern, norm or model, allowing easy comparison between them (Saunders et al, 2007)

2.5 Ethical Considerations

Due to the fact that this is a project that involves data from expert and recognised people and from all those who participate indirectly in it, the ethical considerations in this dissertation are oriented to the protection of the confidentiality of the subjects participating in the research and to the access of any information that they provide.

Chapter 3 - Presentation of the Data

As mentioned in chapter two of this dissertation, the research strategy that was chosen to investigate more about our research topic and to generate findings that could be representative for this project was the survey, specifically a web / email survey.

Web surveys or email surveys have become very popular in the last decade, they have evolved very quickly because they are very easy to understand or manage by users according to VanderStoep and Johnson (2009). Also, there are several websites that allow the construction and distribution of survey (VanderStoep and Johnson, 2009). In the case of this dissertation, the website chosen to conduct the survey was Google Forms. The complete survey with all its questions is available in the Appendix A.

Not having direct contact with the research participants due to the data collection design of web / email survey, and in seeking to comply with ethical considerations, a cover letter was prepared that aims to explain the purpose of our research. A consent form was included that can be found in Appendix B. This information was also included in the body of the survey as well as a disclaimer in case the participants had access to participate in the research through a different route instead of the email invitation (Appendix C.) In both cases the information of the researcher for any clarification or question, if any, is provided.

Our target population was professional and experts who work in a commercial field, specifically in international companies and who have some knowledge or have had experience with Alternative Disputes Resolution Processes. Ethical considerations in this dissertation were oriented to the protection of the confidentiality of the subjects participating in the research and to the access of any information that they provide.

The survey consists of eleven questions. Questions two, five, six, nine, ten, are accompanied by a subspace so that the participant can provide more information. All questions are marked as required, which means that the answer is required and without it the survey cannot be submitted, as well as

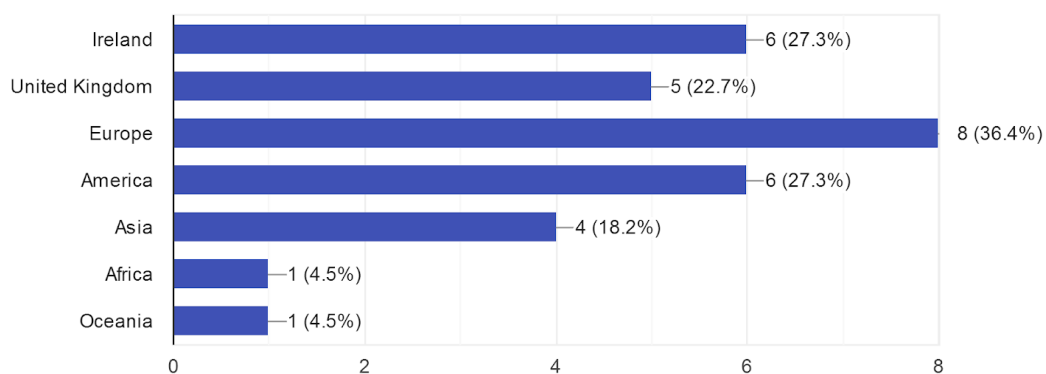
some sub-spaces to provide more information to give us more data on the research topic. The details and reasoning behind the construction of the study and each question are explained below.

One of the purposes of this dissertation is to explore the possibility that Ireland may be emerging as an important business centre in Europe; for this it is important to have feedback that comes not only from countries that are in the European community but internationally. Therefore, question one is aimed at exploring the different parts of the world of the participants' businesses.

The answers provided to this question were segmented covering the five continents; however, Ireland and UK were added as options since they are located in the European space - one continues to belong to the EU and the other is in the process of exit and are both are the countries that concern our research directly.

Figure 3

1. Where is your business based?
22 responses



Even when the researcher's goal is to reach participants involved in business and working in commercial areas in international companies, ideally with some experience in ADR field, it is not correct to assume that ADR principles play a role in the work they do. Therefore, question two and three are intended to establish whether the interviewee has used the Alternatives in Dispute

Resolution Principles, and which of them. Also, in order to add information about which areas, question two has a required subspace in where participants can expand the answer.

Figure 4

2. Do Alternative Dispute Resolution Principles play part on your business?
22 responses

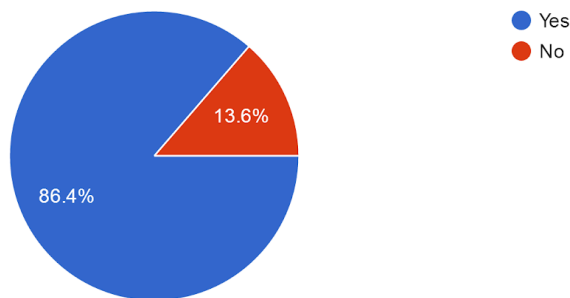
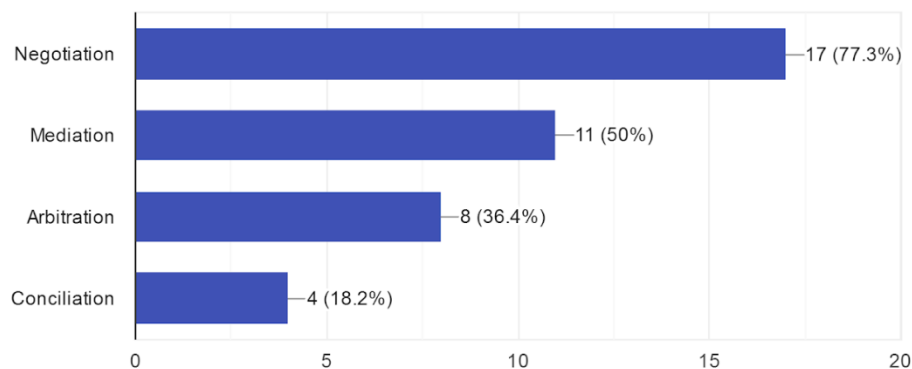


Figure 5

3. If you have had to avail of one of the Alternatives Dispute Resolutions, which is the one you have used the most? (Please tick as many options as are relevant to your workplace)
22 responses



The first objective that is proposed to carry out this research is to establish the importance and the role that ADR plays in different businesses. Then, questions four, five and six seek to explore the

benefits when they have been required, and if they have been effective in general among the commercial sector.

Figure 6

4. Do you think Alternative Dispute Resolution brings benefits to your business when it is used?
22 responses

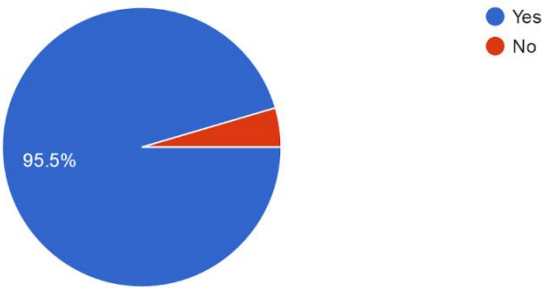


Figure 7

5. If you answered “yes” in question 4, could you indicate which of the following benefits you think the use of Alternative Dispute Resolution provides...s many options as are relevant to your workplace)
22 responses

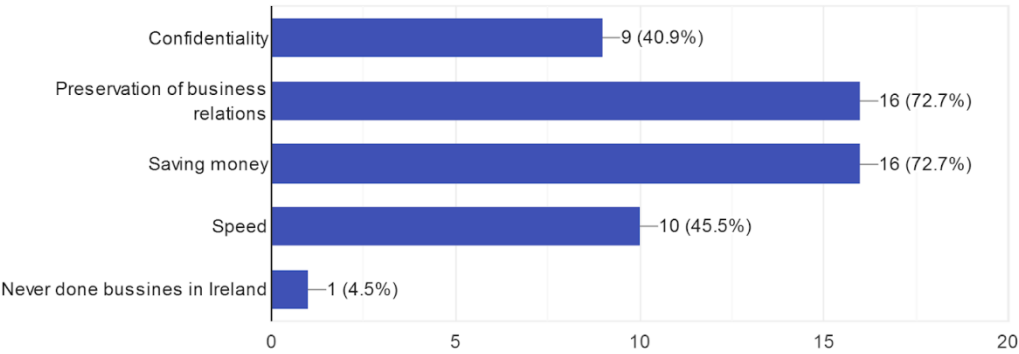
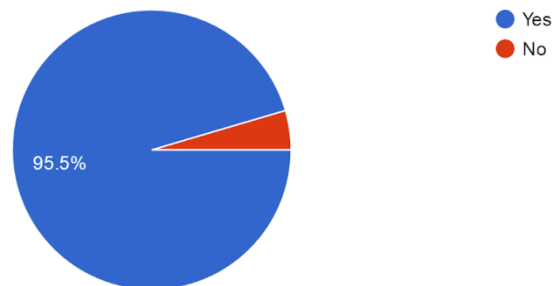


Figure 8

6. Do you think Alternative Dispute Resolution Principles are effective in solving commercial disputes?

22 responses



The last five questions are related to the last two objectives of this dissertation, to explore the use of ADR principles in Ireland in order to establish the possibilities that these are a key factor that can contribute to the country emerging as the new centre of business within the European community.

Questions seven, eight and nine focus on knowing if our participants have used the ADR principles in Ireland and if they have been effective, to establish if they are useful for their businesses.

Figure 9

7. Have you used Alternative Dispute Resolution to solve a Dispute in Ireland?

22 responses

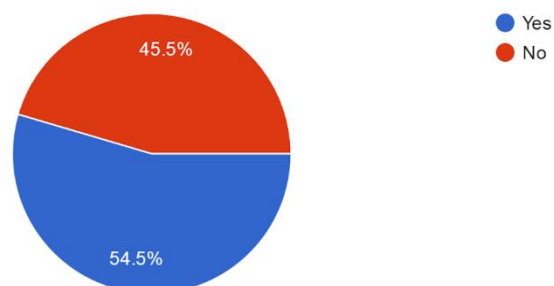


Figure 10

8. If you answered “yes” in question 7, which of the following Alternatives Disputes Resolutions have you applied to resolve your business conflict in Ireland?

22 responses

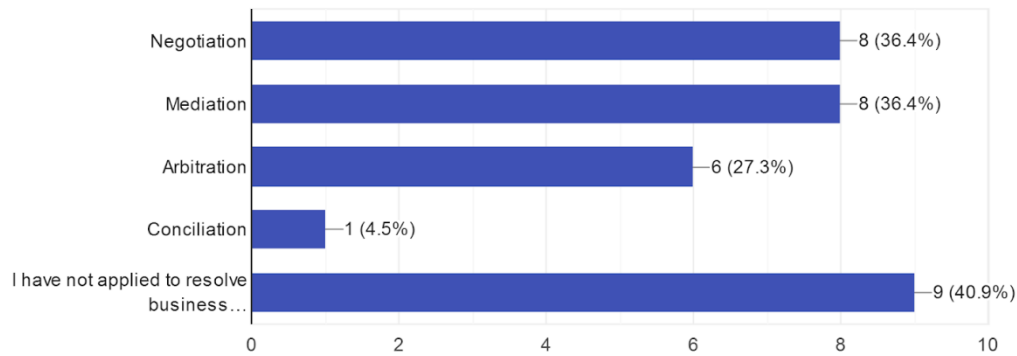
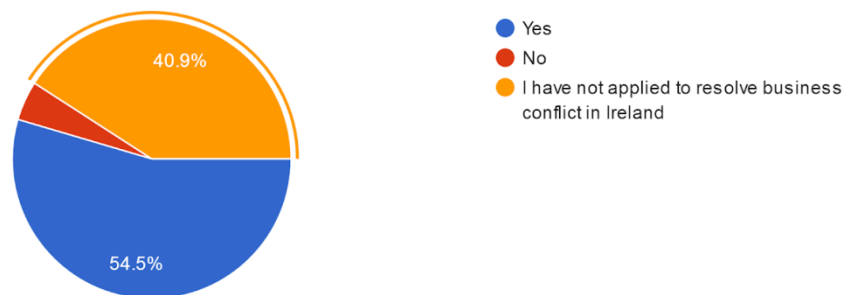


Figure 11

9. Has the use of these alternatives managed to solve the conflict of your business in Ireland effectively?

22 responses



All the questions in this survey are important for the development of this research. However, the last two questions offer us the opportunity to obtain a more general overview of the main objective of this research project. Questions ten and eleven seek to determine if the ADR principles that Ireland offers are a factor that can help to generate new investments and businesses in the Irish country.

Figure 12

10. Do you consider that the support of the Alternatives Dispute Resolution that is offered in Ireland could be an important factor to generate new investments and businesses in it?

20 responses

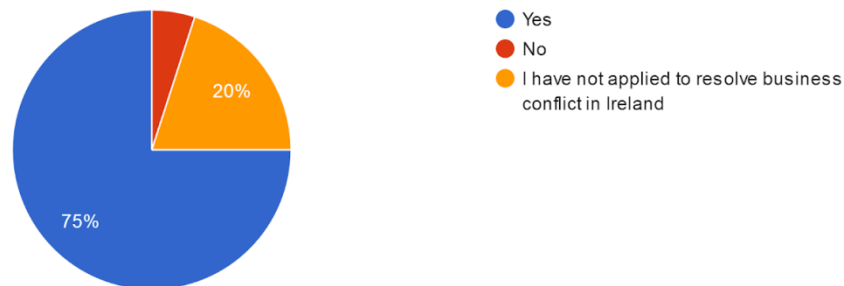
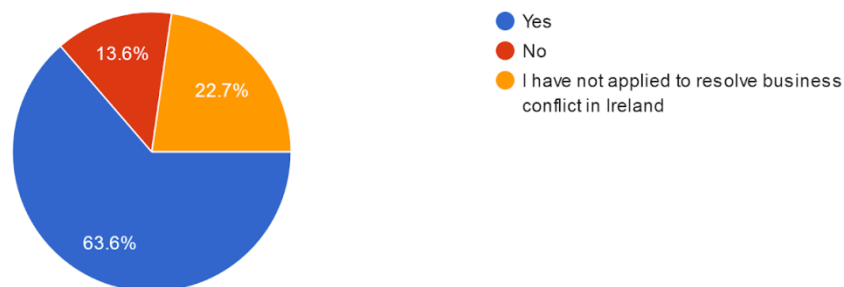


Figure 13

11. In your opinion, do you consider that the support of the principles of Alternative Dispute Resolution that Ireland offers could be an important...itself as a new business centre in EU after Brexit?

22 responses



Google Forms is an extremely easy to use platform and it is very useful for the construction of this survey. However, several tests are carried out before sending the final survey to our participants. The sample obtained was a sample of twenty-two participants from different parts of the world and who met the characteristics of the target population.

The answers obtained in the sub-spaces that contained some of the main questions and the results obtained in the survey will be analysed and explained in chapter five, Data Analysis and Findings.

Chapter 4 - Data Analysis / Findings

This dissertation seeks to mix the strengths of both qualitative and quantitative data. VanderStoep and Johnson, (2009) explain that in a qualitative research, the analysis of data and its interpretation can help and include: quantitative data, such as frequencies and percentages, accompanied by qualitative descriptions, that are normally appropriate to help us to understand more thoroughly the range and the scope of the main topics reached in the investigation (VanderStoep and Johnson, 2009). This explanation supports our design, which is actually based on the use of both methods, and leads us to the explanation of how the results obtained in the survey will be addressed and explained.

4.1 International and Commercial business

In question one, a total of seven options were given to choose from. The results show that the participants are involved in businesses that have an international profile being located in various regions of the world.

The region with the highest score in question one was Europe, with a total of 36.4%. Based on our sample, this means that survey participants do more business in Europe compared to Africa and Oceania. Africa and Oceania are in the lowest position with just 4.5%, while in second position and with the same amount of percentage are Ireland and America, showing the 27.3%, followed by United Kingdom with 22.7%, and Asia representing 18.2%.

It is to our knowledge that Ireland and United Kingdom are in the European area; however, as explained in the previous chapter, these options were added because they are the countries involved directly in our research.

On the other hand, we found that although the sample obtained was 22 participants, the answers in question one are 31. This only means that the businesses of the participants are located in different regions, at least nine of them, and that is why they are considered international businesses.

4.2 ADR's part in the Businesses

Our sample indicates that 86.4% of our participants use ADR principles in their businesses. The ADR most used is negotiation, which obtained 77% - at least 17 participants. The alternative which plays the most important role is negotiation, and, according to this sample, negotiation is vital when doing business with other companies.

Our sample shows that mediation and arbitration are the most used Alternatives after the negotiation process. 50% use mediation and 36.4% arbitration processes, while conciliation is at the bottom being the least used alternative with 18.25%.

A highlighted aspect in the responses obtained is that establishing ADR clauses in service contracts granted or when contracting them, is essential to be able to close business deals between companies, as well as in internal company matters such as employee contracts.

The use of ADR is also seen as an important factor to avoid unnecessary legal conflicts, helps to generate alliances between businessmen, trade unions, and maintains business relationships.

4.3 Effectiveness and benefits in the resolution of commercial disputes

An important point for this research project was to establish if ADR are effective and if they bring benefits when solving commercial or business deputies.

The results regarding whether ADR can bring benefits and if they are effective in solving commercial or business conflicts were conclusive. In each question asked to explore these factors, a positive result of 95.5% was obtained stating their effectiveness and obtaining benefits when using them.

Among the proposed benefits were confidentiality, speed, preservation of business relationships, saving of economic resources, the last two being the most prominent, both obtained a percentage of 72.7%. However, benefits such as confidentiality and speed are also important factors, speed by 45.5% and confidentiality by 40.9%.

4.4 Alternative Dispute Resolution in Ireland

Having established the effectiveness and benefits that the use of ADR provides in doing business, it was necessary for this project to explore whether these principles have been used in Ireland in solving commercial disputes, which of them were used and whether the process in Ireland had an effective result.

Over half of our sample (54.5% to be precise) has used the Dispute Resolution Alternatives that Ireland offers. Negotiation and Mediation were used to resolve commercial disputes in 36.4%, followed by arbitration in 27%, and again the alternative of conciliation shows to be the least used, obtaining 4.5%.

Regarding effectiveness, the result is once again conclusive - 54% of the participants used ADR in Ireland, and it was the same percentage that affirmed that their use resulted in an effective process.

4.5 Alternative Dispute Resolution Principles as a factor to generate new investments in Ireland Post-Brexit

75% of the participants stated that the ADR processes that Ireland offers could be a factor to generate new business in this country.

The participants in this project were asked and given the option to expand their response regarding the reasons they had to explain that the ADR offered by Ireland are effective processes that can be an important factor to generate new investments and businesses in it. Among the responses obtained were the following:

- 1-The legal sector in Ireland shows efficiency when it provides alternatives to litigation
- 2-Any country that has a better system to resolve commercial disputes are a good place to invest.
- 3- In a volatile market, as it is these days, having a legal sector that works always generates confidence for investors.

4-If the country can manage commercial disputes it means that they can save economic resources and maintain trade relations.

With respect to whether ADR could be a factor for Ireland to emerge as the new business centre in the European Union after Brexit, the results obtained were an affirmative percentage of 63.6%, however 13.6% believe that this is not possible.

Among the reasons that the participants gave for giving a negative answer, the following stand out:

1-Germany and France are much larger countries that have a better response to trade disputes.

2-ADR is not the biggest factor for Ireland to become the new business centre in the EU, but if Ireland wants that to happen, this may be a plus that the country can offer to create business.

3-It takes more than an efficient legal area for Ireland to become the EU new business centre.

Chapter 5 – Discussions

People and their circumstances, interpersonal and business relationships, change from one moment to the next. International markets move their numbers every second. Negotiations between countries are continuously occurring, and always produce different results that affect the interests of the parties involved directly and indirectly.

Seven years ago the United Kingdom announced its attempt to leave the European Union and although it may have taken a while, today it is a reality. Precisely the reason it took so long is because the interests and well-being of many people, companies, businesses and countries were at stake.

Circumstances can change every second. It is for this reason that this dissertation adopts the philosophy of pragmatism, which explains that there is not only one unobjectionable truth, that ideas are provisional and subject to change (Abbas Tashakkori and Teddlie, 1998).

One of the first aims of this project was to establish the role, the importance and whether the Alternative Dispute Resolution principles were effective in commercial disputes and business.

It was found that the Alternatives dispute Resolution principles are used because they have been proven to be effective by the speed with which they can resolve a difficult situations. They built trust because they generated an understanding that could produce reasonable results for each party (APEC Secretariat, 1999.) Benefits such as preservation of business relationships, resource savings, and confidentiality are also obtained, which are also important factors in business development.

Negotiation principle is not a principle that has regulated procedures like the others, but that is considered part of ADR, and is one of the most used alternatives to resolve commercial disputes followed by mediation and arbitration, which confirms Fiadjoe's (2004) position when he states that the two most common forms of ADR are arbitration and mediation. Negotiation is almost always attempted first to resolve a dispute (Fiadjoe, 2004)

Also, the results of the study indicate that ADR are used by some businesses in contracts when a service is provide or it is hired, and they are useful when brought to the negotiating table in order to close a deal. The Law Society of Ireland proposes that the most effective mechanisms to reduce, resolve and handle commercial disputes are to incorporate clauses of ADR in contracts (LRC 2008, P 233,234).

Ireland's relationship with the European Union has up and downs, and Ireland's economy has not always been as strong as today; however this island in the past was known as the "Celtic Tiger" because it has managed to transform financial situations into notable advances and economic growth (Schwartzman 2016).

Although it was found that Germany and France have more appeal for being better established economies, so far and according to EU reports, Ireland had an economic growth of 8.2% in foreign direct investment in 2018. In other words, Ireland is becoming noticed to the world on economic issues (European Commission, 2020).

It was noted in this research project that most of the countries that resolve disputes in Ireland are within Europe; however countries that are in Asia and America have also chosen Ireland to do that, since they find that the country has potential in terms of economic growth and investment, but above all else, that its legal systems are aligned with the EU and that its legal sector is efficient.

The results obtained show that the continents of Africa and Oceania have the lowest percentage in terms of the businesses coming from there, therefore it is considered as an area of opportunity, not only for Ireland, which can focus its interests on attracting business and investment from those countries, but also Europe, which can open its doors to more opportunities that will generate economic growth for all its members.

This research pointed that the Alternatives in the Resolution are not a factor which can determine the economic course of a country, but they are becoming a global phenomenon and are already used for their efficiency and benefits in the commercial area. Many international companies such as Coca

Cola, General Electric and Warner among others, have established their commitment to explore the use of ADR before reaching a litigation process (Law Reform Commission, 2008.) This can be a factor that can define closing of deals between companies and that generates alliances, creating confidence in new investors and therefore helping economic growth.

As already established, circumstances change at every moment. However, for now, the fact that United Kingdom has decided to leave the EU changes the game, and leaves several countries, specifically Ireland, with many challenges as well as opportunities.

One of the challenges for Ireland is to continue maintaining and generating business with the UK, but at the same time reflecting an independent economy in an international sphere (European Commission, 2016)

On the other hand, Ireland has shown economic growth since it was rescued by the EU in 2008, (Schwartzman, 2016.) However, the challenge lies in maintaining growth in a stable way that is reflected in its economy.

Judicial efficiency is a factor of vital importance for the productivity of a company; (Ashan 2013 cited at Doing Business 2020). The opportunities Ireland has to generate new investments are very favourable, and one of the factors that contribute to that happening is its legal sector. According to Clarke (2018) the Irish legal System is considered one of the most suitable places for the European Union in terms of Dispute Resolution, and Ireland will be the biggest common law nation inside the European Union after Brexit (Clarke 2018).

In May 2019, the report of the World Bank Group ranked Ireland at number 24 among the best economies to establish business (World Bank Group, 2019). Ireland has a competitive tax system, educated workforce and above all, its legal system is effective and can be trusted. This is why many companies have chosen it as a base for doing business, and it will remain an attractive place to do business in the years to come (Butcher, 2019).

Conclusions

This dissertation aimed to answer two questions: are the Alternatives in Dispute Resolution an important factor which can help to generate new businesses and investments in Ireland, and what are the possibilities for Ireland to become the new business centre in European Union after Brexit?

Firstly, with the help of the elements analysed, the importance of Alternative Dispute Resolution in business was established. It is concluded that Alternative Dispute Resolution principles are a factor that can help to generate business in general and in Ireland. It is becoming an essential part when companies are in negotiation and closing new deals, and more and more companies are now using ADR to avoid and handle commercial disputes. The availability of ADR in this country, facilitated by Ireland's legal sector, has made it an attractive place for investors to bring business to post-Brexit.

After analysing and discussing all the findings, it was concluded that Ireland's probabilities of becoming the new business centre of the European Union after Brexit are favourable, but they are not immediate. In other words, Ireland has positive factors as a growing economy that would have to continue to remain stable, as well as an efficient legal system. However, there are areas of opportunity in which Ireland will have to work to compete with other EU members if it wants to position itself as a European business centre and compete at an International level.

Reflections

Studying a master's degree is not an easy process; there are many pitfalls and obstacles along the way. Reflecting on the completion of my dissertation, I would like to believe I rose to the challenge to produce a very good body of work, of which I am most proud. As an international student, compiling my dissertation in the English language was in itself at times an obstacle, but one which I feel I have overcome among many other situations.

Overcoming those situations, doing the best you can with what you have and adapting to change are skills that improve a lot in this process and that I think are of great importance for a professional.

Confirm that business, investments, and commercial information and are highly sensitive data that is handled with extreme care but I learned and developed the ability to request and negotiate that information in a professional manner and deal with subject matter experts at an international level.

The availability of those professionals who agreed to participate in this research project and their feedback was very important and provided me with great knowledge on this topic and in general. It was a good opportunity to learn from them to improve my professional career.

This research project helped me obtain information about Ireland, about its history with the EU, its commercial area, and its legal sector that allows me to view this country from another perspective, and that encourages me to be part of the possibilities of economic growth that it has.

Overall, I can say that the process to carry out this dissertation has been a long journey full of obstacles and challenges but also a lot of learning and unequalled personal and professional growth.

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Appendix A – Complete Survey Questionnaire

1. Where is your business based?

Ireland / United Kingdom / Europe / America / Asia / Africa / Oceania

2. Do Alternative Dispute Resolution Principles play part on your business? Yes / No

If yes, can you please explain how and they play a part:

3. If you have had to avail of one of the Alternatives Dispute Resolutions, which is the one you have used the most? (Please tick as many options as are relevant to your workplace)

Negotiation / Mediation / Arbitration / Conciliation

4. Do you think Alternative Dispute Resolution brings benefits to your business when it is used?

Yes / No

5. If you answered “yes” in question 4, could you indicate which of the following benefits you think the use of Alternative Dispute Resolution provides to your business? (Please tick as many options as are relevant to your workplace)

Confidentiality / Preservation of business relations / Saving money / Speed / Other

If you would like to provide any further comment on these benefits, please do so here:

6. Do you think Alternative Dispute Resolution Principles are effective in solving commercial disputes? Yes / No

If “yes” or “no”, can you please explain the basis for your reason:

7. Have you used Alternative Dispute Resolution to solve a Dispute in Ireland?

Yes / No / I have no applied to resolve business conflict in Ireland

8. If you answered “yes” in question 7, which of the following Alternatives Disputes Resolutions have you applied to resolve your business conflict in Ireland?

Negotiation / Mediation / Arbitration / Conciliation / I have no applied to resolve business conflict in Ireland

9. Has the use of these alternatives managed to solve the conflict of your business in Ireland effectively?

Yes / No / I have no applied to resolve business conflict in Ireland

If “yes” or “no”, can you please explain the basis for your reason:

10. Do you consider that the support of the Alternatives Dispute Resolution that is offered in Ireland could be an important factor to generate new investments and businesses in it?

Yes / No / I have no applied to resolve business conflict in Ireland

If “yes” or “no”, can you please explain the basis for your reason:

11. In your opinion, do you consider that the support of the principles of Alternative Dispute Resolution that Ireland offers could be an important factor to help Ireland position itself as a new business centre in EU after Brexit?

Yes / No / I have no applied to resolve business conflict in Ireland

If “yes” or “no”, can you please explain the basis for your reason:

Appendix B – Research Presentation Letter

Dear Participant,

I am conducting research for the purpose of data collection for a survey. This survey is an important part of my Master's degree dissertation in Alternative Dispute Resolution at Independent Colleges Dublin.

The research aims to explore the relevance of using Alternative Dispute Resolution principles to settle a dispute in commerce, and whether the Alternative Dispute Resolution Principles can be a key factor in generating new investments in Ireland Post-Brexit.

By participating in this survey, you are indicating that you:

- Work or have worked within the business or commercial area.
- Have some knowledge about or experience with Alternative Dispute Resolution.
- Understand that your responses are anonymous.
- That you will not be identified in any way.
- That you are at least 18 years of age.
- Understand that participating is strictly voluntary.
- You can withdraw at any time or refuse to answer any question without any consequences of any kind.

Data Protection

Data Protection Act is respected for this survey as well as ethical considerations.

This data is collected anonymously to the extent that the subject will never be identified.

The data will be kept as long as it is necessary to fully complete the dissertation.

The data research will be published in the form of a dissertation to be presented for grading; there will be strictly no identifying information disclosed in the dissertation.

After the dissertation is completed, all the research data will then be securely deleted, as soon as there is no longer a use for it in my research as per the Data Protection Act and as Independent College Dublin policy.

Thank you in advance for your time to complete this Survey and for taking part of my Master's Degree Research.

Researcher

Daniela Martínez

Please see find consent form below

Consent Form.

As outlined in the research information sheet accompanying this Consent Form, participation in the research is strictly on a voluntary basis and all information gathered will be treated in the upmost confidence.

Participation in this Survey is subject to the following conditions:

- Completion and return of the questionnaire is strictly voluntary.
- You can withdraw at any time or refuse to answer any question without any consequences of any kind.
- Completed questionnaires are to be returned directly by email as stated above to me: the researcher.
- There will be no disclosure of your participation or non-participation in this research.
- Your informed consent as indicated by your completion of the consent form below.

Consent confirmation: Please read and put X in relevant box below if you wish to participate in this research.

I have read the attached information sheet which outlines the proposed research.

I understand that I have been invited to participate in an anonymous questionnaire (attached) as part of this research.

I understand that all information gathered will be kept **strictly confidential** and that my name will not be included in any reports or presentation of this information.

I understand that the anonymous information will be published in the form of a Master's dissertation and analysed, and that the participant **will not** be disclosed in the presented information.

Please complete the following if you consent to proceed.

The participant is giving informed consent to participate in this study.

Yes	No
-----	----

I voluntarily agree to participate in this research study.

Yes	No
-----	----

If you have any queries or if you like any future information, please do not hesitate to contact me on contact details below.

Yours sincerely

Researcher: Daniela Martínez

Email: dmartinezpin@gmail.com

Mobile: +353 83 826 2461

Appendix C – Survey Disclaimer

Alternative Dispute Resolution Principles as a factor to generate new investments in Ireland Post-Brexit.

This survey is an important part of my Master's degree dissertation in Alternative Dispute Resolution at Independent Colleges. The research aims to explore the relevance of using Alternative Dispute Resolution principles to settle a dispute in commerce, and whether the Alternative Dispute Resolution Principles can be a key factor in generating new investments in Ireland Post-Brexit.

If you are completing this survey, this indicates that you have been invited and have agreed to participate voluntarily in this anonymous survey as part of this research.

You can withdraw at any time or refuse to answer any question without any consequences of any kind.

The anonymous information will be published in the form of a Master's dissertation and analysed, and the participant will not be disclosed in the presented information.

This survey fully respects the Data Protection Act as well as any ethical considerations.

This data is collected anonymously and the subject will never be identified.

Thank you for taking part in my survey.

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Figure 14

Alternative Dispute Resolution Principles as a factor to generate new investments in Ireland Post-Brexit

This survey is an important part of my Master's degree dissertation in Alternative Dispute Resolution at Independent Colleges. The research aims to explore the relevance of using Alternative Dispute Resolution principles to settle a dispute in commerce, and whether the Alternative Dispute Resolution Principles can be a key factor in generating new investments in Ireland Post-Brexit.

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Thank you for taking part in this survey for my Master's Dissertation.

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