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The Role of ADR in Modern and Traditional Organizations

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Table of Contents

<i>List of Figures and Tables</i>	<i>4</i>
<i>List of Abbreviations</i>	<i>4</i>
<i>1 Introduction</i>	<i>5</i>
1.1 Background and Research Question	5
1.2 Course of Investigation	7
<i>2 Literature Review</i>	<i>8</i>
2.1 Alternative Dispute Resolution	8
2.2 Definition of Conflict and its Nature	8
2.2.1 Conflict vs. Dispute	10
2.2.2 Definition of ADR	12
2.3 The Rise of ADR	14
2.4 Interest-Based and Rights-Based Approach	17
2.4.1 Strategic Orientation – Conflict Management Goals	19
2.4.2 Commitment of the Organization to ADR	22
2.5 Conflict Management Systems and ADR	24
2.6 The Role of HR	26
<i>3 Research Methodology</i>	<i>29</i>
3.1 Questionnaire Design	37
<i>4 Findings and Discussion</i>	<i>39</i>
4.1 Characteristics of the Experts Being Interviewed	39
4.2 ADR in the Context of Conflict Management – What is ADR Today?	40
4.2.1 ADR and Conflict Management Systems	43
4.3 The Role of Mediation in Organizations	45
4.4 Why Organizations do (not) Implement Conflict Management and ADR	47
4.4.1 How ADR and Conflict Management can help to Create a Better Organization	51
4.5 The Role of HR and Internal Influencers	53

4.6	The (Ideal) Future of ADR and Conflict Management	55
5	Conclusion	58
5.1	Future Outlook	62
5.2	Limitations	62
6	Bibliography.....	64
7	Appendix	69
7.1	Summary of the Interviews	69

Abstract. In today's fast-pacing environment, conflict is an integral part of company culture. Since the late 1970s different concepts have emerged that help organizations to deal with conflict in the best possible way. One of these concepts that has proven to be helpful is alternative dispute resolution (ADR). While ADR focuses on the resolution of a conflict that is already at a later stage, it is part of a broader concept called conflict management system, which has gained increasing importance in recent years. In this research, using a qualitative interview methodology, the author focuses on the question what ADR means for organizations in the context of conflict management systems. Furthermore, it is discussed what the reasons are that some organizations implement ADR and conflict management systems and others do not. It will also be investigated to what extent the implementation of ADR and conflict management systems can lead to a better working culture. Based on the discussion of these questions, the author shows that a division into modern and traditional companies is not the decisive factor that determines the value of ADR and a conflict management system for organizations.

List of Figures and Tables

Figures:

Figure 1 – The Research Onion.....	30
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Tables:

Table 1 – Qualitative and Quantitative Methods: Strengths and Weaknesses.....	35
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List of Abbreviations

ADR – Alternative Dispute Resolution

FMCS – Feder Mediation and Conciliation

HR – Human Resources

HRM – Human Resources Management

KPIs – Key Performance Indicators

1 Introduction

In this part of the thesis the background of the study will be described and it will be explained why it is relevant.

1.1 Background and Research Question

In today's fast pacing environment and business atmosphere, conflicts at workplace gain increasing importance. Therefore, it is important that organizations develop an understanding that conflict is not necessarily bad but they also need know how to deal with it. If organizations do not tackle conflicts at an early stage and do not find the right approach to deal with them, these issues might evolve and become even harder to resolve. Conflicts are an essential part of an organization's life that have both advantages (e.g., new ideas and developments) and disadvantages (e.g., high cost, terminations). To address the issues that arise due to conflict at workplace, since the 1970s, many organizations have started to use alternative dispute resolution (ADR) (Barrister, et al., 2014).

In this challenging business environment, where companies often need to adapt to quickly changing circumstances, disharmony within organizations may even impede companies from creating adaptable structures that allow to succeed (Teague, et al., 2015). Therefore, the debate about ADR and conflict management has become an important topic of research and debate. Especially in the United States much research has been done in this context, often solely focusing on the ADR practices itself, but also in Europe researchers have started to focus on this field (Roche & Teague, 2012).

Despite the fact that the topic of conflict management and ADR at workplace has gained more attention in recent years, there are still many fields that remain unexplored. It needs to be understood what people from practice think about ADR today, especially in its broader context as part of conflict management systems. Moreover, not much research has been done, when it comes to the question *why* some organizations introduce conflict management and ADR and some others do not. Hence,

part of this paper is to investigate what the driving forces and determining factors are that influence this question. Moreover, the question to what extent a conflict management system has an effect on the company culture will be discussed.

Against this background the author of this dissertation has developed the following three research questions:

- What is today's meaning of ADR in the context of conflict management?
- Why do some organizations implement ADR and conflict management systems and others not?
- How can ADR and conflict management systems help to create a better organization?

This leads to the following research objectives:

- To give an overview of the background and approaches of ADR and conflict management
- To understand what is necessary to implement a conflict management system
- To understand how ADR and conflict management systems can help to create a better company culture

These objectives are closely linked to the research questions and help to answer the hypothesis that many (modern) organizations do not value the advantages of ADR and conflict management high enough to implement it. This paper will help to provide the reader with an answer to this question by elaborating on the research questions. Moreover, the reader needs to be aware that ADR is a part of conflict management and conflict management systems. Therefore, depending on the context, the terms ADR and conflict management are used interchangeably as it is often referred to the broader, more strategic field of conflict management. As ADR has been widely researched as a stand-alone approach (especially in the United States) this paper will show that today, ADR is mostly referred to as part of conflict management systems.

1.2 Course of Investigation

In the first part of the thesis, the author will give an overview of the background and different aspects that need to be considered when answering the research questions. To do so, the author will first give an introduction to the definition and connection of the terms conflict and dispute as well as ADR. This is important to avoid confusion. Then the author will introduce the reader to the background of ADR and conflict management by giving an overview of the developments and rise of ADR. The concepts of interest-based and rights-based approach to conflict resolution are at the core of the section that follows next. This is especially important with respect to mediation and to be able to distinguish the different approaches. Therefore, the next step is to elaborate on the strategic orientation that organizations follow when they consider conflict management strategies, as depending on the goal, the approaches can differ. This leads to the question of the commitment of the organization to ADR, which helps to answer the question, why some organizations implement well-working conflict management systems, and others do not. The next step is to further investigate the connection between conflict management systems and ADR from a scientific point of view. Furthermore, the role of HR will be investigated. It is necessary to understand what is needed to implement conflict management system and ADR, and HR plays a key role in that process.

The second part of the dissertation, the practical part, will first give an introduction to research methodology and explain why a qualitative approach has been chosen for this thesis. Furthermore, the outline of the interviews will be presented, followed by an analysis and discussion of the results obtained. Lastly, the author will summarize the results and state the limitations.

2 Literature Review

2.1 Alternative Dispute Resolution

In the part of the Thesis, the author will give an introduction to ADR. In order to understand the topic and to be able to discuss its current relevance especially with respect to the workplace, it is important to give an introduction to the history of the topic but also to define the term and its context.

2.2 Definition of Conflict and its Nature

Before going into detail on defining ADR, it is important to understand what the context of the term is and what it relates to. The keyword here is *conflict*. First of all one needs to know that “there is no universally accepted definition of conflict” (Barrister, et al., 2014, p. 75), which means that it is hard to define the term, because conflict can have different meanings or interpretations for different people, depending on the context, their background, their socio-economic environment or biases. However, there are several definitions from different researchers and different institutions. For instance, the Cambridge Dictionary defines conflict as “an active disagreement between people with opposing opinions or principles” (n.d.). Conflict, according to Rahim (1992), is an interactive process characterized by incompatibility, dissonance, or disagreement within or between social entities. Wilmot and Hocker conclude that conflict is “an expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce resources, and interference from others in achieving their goals” (2001, p. 41). Even though, these definitions are not exactly the same, they are similar in a way that they all direct towards interpersonal relationships and disagreements between social entities or more specifically between humans.

To understand the topic better, it is important to also look at the nature of conflict and how the academic definition of the term has changed throughout the years. These developments also reflect the changes that took and take place with regards to social and international relationships but also with respect to the developments of the idea of human nature. In the era of the Cold War, the focus

of conflict was concentrated on questions of *dominance*, *positions*, and *end-games*, which ultimately led to the sole focus on losing and winning. This perspective was based on and strengthened by a view of human behavior and motivation that is inherently self-interested and greedy, as well as an environment in which exclusive desires and wealth can only be gained at the cost and disadvantage of others (Doherty & Guyler, 2008).

Since then, advances in social science, as well as humanistic and other individual psychologies, have enriched the understanding of human interaction, providing people with less pathological and more balanced paradigms that include altruism as a natural intrinsic development of human existence and of people's innate needs and values (Maslow, 1972). Consequently, later concepts of conflict incorporate new positive aspects of interdependence as a result of this expansion of thinking, and also allow for the possibility of conflict as a transformative path – leading to better partnership, change, and improved mutual outcomes (Doherty & Guyler, 2008). Hence, one can see a clear shift between the early definitions of conflict in social science and the contemporary definitions. For example, in 1990, Jordan stated that "conflict arises when a difference between two (or more) people necessitates change in at least one person in order for their engagement to continue and develop. The differences cannot coexist without some adjustment" (p. 4). And in 1992, Donahue and Kolt defined conflict as "a situation in which interdependent people express (manifest or latent) differences in satisfying their individual needs and interests, and they experience interference from each other in accomplishing these goals" (p. 3). The emphasis that these two quotes show, is not on winning or losing anymore, which already describes a shift paradigm compared to earlier definitions.

According to Doherty and Guyler (2008, p. 47), the following are the new essential constituent elements in this revised definition:

- Underlying *differences* that are acknowledged and respected;
- that are based on *interests* between people who *interact*;

- and who are willing to *invent options for mutual gain*;
- using *objective and not personal criteria*.

Summarizing the above, one can state that ultimately, conflict is about changing the status quo, or according to Acland (1990), all conflict stems from someone's desire for change versus someone's aversion to change.

2.2.1 Conflict vs. Dispute

While the previous part mostly deals with defining and describing the term *conflict*, it is important to establish some clarity around the question of what the difference between conflict and dispute is, if there is any. As the author showed, there is no general or universally accepted definition of conflict and the definitions that have been made by researchers and organizations have changed throughout the centuries, always embedded in the context of current (world political) influences. When asking people from practice, for instance lawyers, they often state that the terms *conflict management* and *dispute management* are used interchangeably (Lipsky & Seeber, 2004). However, conflict management, according to Lipsky and Seeber (2004), is more comprehensive than dispute management, which is why they make a distinction between dispute and conflict. Conflicts can be described as any organizational tension that results in a misalignment of expectations regarding the proper course of action for an individual or a group of individuals. Conflicts are not necessarily resolved by litigation; they may be ignored, sometimes suppressed, or considered unimportant enough to be left alone. On the other hand, disputes are considered to be a subset of conflicts that need to be resolved as they are triggered through several events, such as a written complaint, the filing of a grievance, or a lawsuit against an entity (Bacharach & Lawler, 1980). According to Lipsky and Seeber (2004), accepting the difference between disputes and conflicts, causes the debate to inevitably evolve into a divergence in the effort to manage both. They state that it is significantly less complex to manage a dispute, as a dispute only represents the tip of the iceberg, where the iceberg symbolizes the overall conflict.

To effectively resolve disputes, a company simply needs to transfer the dispute to a venue that is most advantageous to it in order to achieve lower costs (transactional and result), a faster settlement time, or simply a greater chance of a better outcome. Such practices would be considered successful dispute resolution (Lipsky & Seeber, 2004). Lipsky and Seeber (2004), conclude that as a result, much of what is known as dispute resolution seems to be “forum shopping”. Organizations that want to resolve conflict must look past this narrow collection of procedures and into a broader spectrum of issues, which means to include a wider set of questions, involving more parts of the company, and a more dynamic structure. The objectives of a conflict management system are much wider and more varied. The aim of conflict management systems is to give conflicts a productive direction that is, not just trying to manage a resolution, but to divide the responsibility for conflict and its resolution to all levels of an organization, including the lowest. This results in more training needed, in order for them to be more widely used. Conflict management systems want to transform the company, not just introduce a set of procedures (Lipsky & Seeber, 2004). Lipsky et al. (2003) argue that conflict management systems give more room for effective investigation and discovery because of their sophistication and the possible benefits they offer an organization. Therefore, they conclude that dispute management is more sophisticated than litigation, but conflict management is even more complex.

As the literature shows, one can neither make a clear distinction between what is a dispute and a conflict, or where the exact boarder between the two is, nor how to define each term. Throughout the years, the definitions have changed and have been adapted. However, there has never been a single, universally accepted definition. What makes it even more complex is that the words are often used interchangeably, not only by researchers but also by people from practice. What can be concluded, however, is that the scope of a conflict is oftentimes much more complex or larger than the scope of a dispute, meaning that it can incorporate a broader range of topics and influences that can lead to the conflict. While the title of this paper is Alternative Dispute Resolution at Workplace, this does not

mean that the influences of conflict on a dispute and the relationship between the two are neglected. Rather, it is the case that the author will show how conflict management systems can help to establish a healthy organization and how these concepts are embedded with the ideas of alternative dispute resolution.

2.2.2 Definition of ADR

In this section it is important to get an understanding of how ADR in the context of workplace is defined. Again, there is no universally binding definition, which means that the definitions that researchers made are rather descriptions.

According to the Legal Information Institute of the Cornell Law School, ASR is “any method of resolving disputes without litigation. (...) Public courts may be asked to review the validity of ADR methods, but they will rarely overturn ADR decisions and awards if the disputing parties formed a valid contract to abide by them. Arbitration and mediation are the two major forms of ADR” (2017). Teague et al. (2015, p. 9) describe ADR as follows:

The term ADR, as applied to the world of work, is used normally to denote procedures and mechanisms for conflict resolution that provide alternatives either to litigation or resort to administrative tribunals (...). The term also came to be associated with specific sets of procedures and mechanisms in non-union organizations such as workplace mediation, fact-finding, ombudsmen, arbitration and review panels comprising managers or peer employees. These mechanisms are sometimes bundled together in integrated ‘conflict management systems’, in which multiple forms of ADR, or so called ‘interest-based’ practices, take precedence over ‘rights-based’ fall-back procedures, such as formal grievance processes.

This description of ADR shows that there is a close relationship between conflict management and ADR so that one can say that ADR is part of conflict management. According to Barrister et al. (2014), nowadays, the acronym ADR and the term conflict resolution system design gain a lot of

traction. They state that “ADR uses faster, more user-friendly methods of dispute resolution, instead of traditional, adversarial approaches (such as unilateral decision making or litigation)” (Barrister, et al., 2014, p. 77).

Furthermore, Teague et al. (2015) state that ADR has traditionally been used to describe methods of resolving conflict and disputes involving individual workers, particularly in the context of complaints and disputes over individual employment rights. More recently, however, ADR has come to be used to refer to ways of dispute settlement that work side by side with or similar to judicial processes. Again, the emphasis has been on types of ADR that deal with individual complaints, but collective conflict and, more precisely, conflicts that occur in the context of collective bargaining, are also covered by this term (Purcell, 2010). As a result, according to Purcell (2010), a distinction has been made between *judicial* ADR and *non-judicial* ADR, with the latter concept encompassing processes for dispute resolution in the workplace, and also extending to long-standing mechanisms that are not subject to legal control. Furthermore, the concept of ADR is now being used to describe new approaches to conflict management and resolution in the workplace. ADR is not only a topic for non-unionized firms. The advent of different types of ADR in unionized companies associated with collective bargaining offers a contrast not only with regards to courts, but also with long-standing conflict resolution procedures, which are focused on sequential, multi-step stages that often end in external third-party agencies dealing with the dispute or the courts again (Teague, et al., 2015). This shows, that ADR can be seen in very different situations and the context (e.g., unionized, non-unionized organization) is of importance, when trying to define the term.

2.3 The Rise of ADR

In this part the author wants to give an overview about the rise of ADR, especially in a practical context.

Throughout the last 40 years, the conflict resolution landscape has changed tremendously. As the author showed in the previous section, over this time, empirical research has shown that an increasing number of companies have shifted away from conventional methods of resolving organizational conflict and instead implemented arbitration, mediation, and other dispute resolution techniques. Many academics followed the belief that companies have embraced these approaches to a large extent to avoid the need of litigation when addressing disputes and conflicts. The belief, shared by academics and practitioners alike that companies profit from abandoning dispute resolution methods that rely heavily on either managerial authority or litigation, has been at the center of this transition (Lipsky, et al., 2017). When ADR at workplace first gained traction in the 1970s, both practitioners and academics assumed that companies were primarily driven by a desire to escape the time and expense of going to court to settle the multiple employee lawsuits (Lipsky, et al., 2003).

However, as time went by, it became clear that avoiding lawsuits was not the only – or even the primary – motivation for employers to use ADR. Past researchers studying the reasons for the growth of ADR have identified a variety of pressures and anticipated organizational benefits, ranging from potential efficiency gains to greater satisfaction for all parties (i.e., employers and employees).. Among these motivations was the belief of employers that ADR could help to avoid unions, their recognition that adopting ADR contributes positively to recruiting and maintaining employees, and the assumption that using ADR would lead to more long-term resolutions of their disputes, than litigation. This already gives an idea that the potential benefits of ADR for organizations vary greatly and different ADR methods lead to different effects (Lipsky, et al., 2017).

Teague et al. (2015) point out the importance of the Gilmer case in the United States (the Supreme Court decided that employers were enabled to specify in employment contracts that workplace dispute resolution procedures must be used to resolve any employment conflicts that may arise) as a very important factor for the rise of ADR however, they also stress the significance of the decline of unionization at workplace that lead to a rise in individual employment disputes and thus, ADR. The decline of unionization and collective bargaining has been linked in some countries, particularly the United Kingdom, to the transition of workplace conflict from collective expressions of conflict such as strikes, to a variety of individual conflicts. But there is also another aspect that needs to be taken into consideration when explaining the rise of ADR, which is the management side. Here, the emergence of human resources management (HRM) as an influential paradigm is seen as having a significant impact on the growth of various types of ADR frameworks for resolving individual conflicts (Teague, et al., 2015). This is important, as it shows that “innovative forms of dispute resolution may indeed represent an extension into the realm of conflict management of the basic principles and postulates informing HRM policies more generally in firms” (Teague, et al., 2015, p. 13).

Summarizing the above, one can state that there are mainly two reasons that explain why management at workplace adopts ADR. The first is the connection between different conflict management approaches and ADR and the external environmental pressures. According to this viewpoint, ADR is an effort to reduce the organization's vulnerability to external challenges and constraints (Lipsky, et al., 2017). Lipsky et al. (2017) state that the increase of litigation as a result of the increase in government regulations that started in the 1960s, had a positive effect on the adoption of ADR, in order to avoid the organizational costs associated with litigation. A further external driver that lead to the adoption of ADR, has been the management's appreciation of the ability to use ADR that is based on the wishes and ideas of the company, as a replacement for dispute resolution processes established jointly by unions and employers under collective bargaining (Colvin, et al., 2006). In fact,

this aims at replacing the grievance procedure, which is a well-established grievance process that generally involves many measures that all sides may take to settle a dispute and ultimately leads in binding arbitration. It is one of the most prominent aspects of a unionized workplace, especially in the United States. Hence, some businesses tend to see ADR as a way to provide workers with the advantages of a formalized and organized dispute resolution process without the necessity for labor unions (Avgar, et al., 2013). Lastly, increased competition, is likely to prompt businesses to rethink how they organize and arrange work, including how they handle conflict. ADR was also used by many companies with the hope that it would facilitate and strengthen collaboration and problem solving, as well as an attempt to reduce costs (Lipsky, et al., 2003).

A more recent hypothesis emphasizes the connection between internal organizational pressures and the adoption of ADR. Research suggests that, on the one hand, there is a link between the use of internal conflict management practices and alternative dispute resolution, and, on the other hand, internal organizational challenges and pressures (Lipsky, et al., 2017). The reduction of structures, that were mostly traditional and hierarchical, together with the restructurings that have been taken place since the 1980s, lead to a different attitude towards conflict and collaboration and resulted in new paradigms of resolving conflict. From this perspective, ADR is the result of a rethinking of conflict within businesses and the understanding that resolving it is critical to advancing new ways of working (Roche, et al., 2014).

As this section shows, the history of ADR and its rise are influenced by a variety of factors. It is important to take the distinctive aspects into consideration as they come from very different directions. Furthermore, not only organizations have developed, but also research. As the author showed, there has been a shift in paradigm by both organizations and researchers in the way they looked at and evaluated ADR.

2.4 Interest-Based and Rights-Based Approach

While previous research, has identified various factors that can help explain why, especially in the United States companies are increasingly using ADR, little has been explained about the degree to which the value of these factors differs by firm. Lipsky et al. (2017) argue that companies are likely to have various strategic approaches that encourage their use of new dispute resolution practices. Because of these various strategic approaches, there are differences in the use of mediation, arbitration and other forms of ADR among organizations.

For example, Colvin (2003) found that companies in industries such as the telecommunications sector, where they oftentimes had to deal with litigation, rather tended to apply arbitration, which is a process that entails many features of litigation. In contrast, companies that had to deal with a high level of unionization rather adopted methods such as peer review, which is a technique of conflict resolution that involves fellow employees in a meaningful way when resolving employee complaints. Therefore, Lipsky et al. (2017) conclude that the strategic advantages that companies expect to gain from the use of various ADR techniques vary. This leads to the questions if firms with different strategic approaches to ADR embrace and use different dispute resolution practices more frequently and if there is a connection between strategic orientations of companies, their commitment to using ADR, and the particular practices they follow and use.

To respond to these questions, Lipsky et al. (2017) differentiate between different ADR methods based on their core characteristics. A well-established distinction in the literature regarding conflict resolution, is the distinction between the *interest-based* and *rights-based* conflict resolution options. The differentiation between these two dispute resolution definitions is important since it reveals the underlying rationale that motivates organizations to use these particular approaches. The most critical difference between an interest-based option and a rights-based option is the questions to what extend authority is given to a third party in deciding the dispute's outcome. On the one hand, the rights-based options, such as arbitration, delegate (nearly) all authority to a third party to impose a binding and

generally final ruling on the disputants. On the other hand, interest-based dispute resolution options, such as mediation and facilitation, give a third party very little power to impose a settlement on the parties at dispute (Lipsky, et al., 2017).

Interest-based options are mostly informal processes that are intended to help the parties achieve a negotiated solution that they create themselves. Interest-based methods, such as mediation, are not intended to resolve the merits of a particular dispute – that is, to determine which party is correct or incorrect – and may not include a third party as a decision maker (Colvin, 2014). An interest-based option often assists the parties at dispute to overcome impasses in important core issues. In practice this means that mediators for example, often support employers and unions during negotiations on wages and salaries, when they have taken conflicting positions that need to be resolved. According to Colvin (2014), interest-based options are popular because they have the ability to increase the possibility that the parties, with the help of a neutral person or institution, will be able to come up with innovative strategies that not only overcome the parties' conflicting views on key issues, but also discuss the parties' varying desires and needs that have been laid open and discovered during the mediation process. Consequently, interest-based solutions are often appealing to organizations not only because of their ability to produce agreements that reconcile the parties' disagreements on positions, but also because they represent the parties' shared interests and promote problem solving (Avgar, 2016). Generally, one can conclude that the options of interest-based conflict resolution are often preferred by disputants who seek informal and oftentimes less time-consuming processes that are focused on reaching mutually agreeable settlements (Colvin, 2014).

Rights-based solutions, such as arbitration, on the other hand, are typically unable to address the disputing parties' underlying desires or needs. Rather, a third-party decision maker is included in these processes, who insists on the merits of each party's statements and arguments (Colvin, 2014). Arbitration and other rights-based options are intended to adjudicate each disputant's arguments by putting the focus on the facts of the particular case, with the intention of presenting adequate proof to

allow the third party (often arbitrator) to make a final and declarative decision or award (Avgar, 2016). Rights-based options, in comparison to interest-based options, provide organizations with a much higher degree of assurance about the formal, and usually final and binding, settlement of a dispute. These options are likely to appeal to companies that want certainty and finality in dispute settlement and want to avoid litigation (Lipsky, et al., 2017). In conclusion, as Lipsky et al. (2017) state, mediation has the intrinsic power to assist disputants in reaching a mutually beneficial settlement. Arbitration, on the other hand, emphasizes the importance of finding a definitive and binding settlement that takes into account the dispute's facts and merits.

This differentiation suggests that there is a connection between a firm's strategic choices and the different ADR options. According to Lipsky et al. (2017) there are two dimensions among which firms can be distinguished when it comes to the use of particular ADR practices. On the one hand it can be according to the organization's *strategic orientations* towards ADR, on the other hand it can be according to their *commitment to the use* of ADR options. The strategic orientation of a company is formed by its top management's view of what it expects to achieve with the use of alternative dispute resolution practices rather than litigation. The commitment of an organizations to ADR captures the degree to which a firm's policies and procedures promote the adoption and use of ADR. In the following part the author will further elaborate on the two strategic choices.

2.4.1 Strategic Orientation – Conflict Management Goals

One can state that organizations do not only differ in the dispute resolution practices they follow, but also in the underlying reasons that drive these decisions (Avgar, 2016). Industrial relations researchers, for instance, have emphasized how strategic choices and political decisions made by managers, union leaders, and other players have influenced the essence and consistency of their relationships (Kochan, et al., 1984). Kochan et al. (1984) suggest that the essence of workplace relations processes is determined by decisions taken by top and middle managers and their union counterparts, rather than by organizational reactions to structural powers. These actors are faced with

a variety of strategic options, and the choices have a huge impact on the results they achieve. Based on the assumption that there is a relationship between the strategic choices the actors make and organizational conflict management, Lipsky et al. (2017, pp. 13-14) suggest three conflict management goals that guide an organization's decision to prioritize ADR over litigation as a means of resolving organizational disputes:

- improving organizational efficiency
- enhancing sustainable and satisfying resolutions of workplace disputes
- limiting the organization's exposure to litigation.

If an organization wants to improve its efficiency, it is a perspective that refers to organizations that believe ADR will help them improve their performance. Hence, they usually see conflict resolution as a way that helps them reduce administrative and logistical costs of workplace disputes and conflict, as many companies believe that forms of ADR, such as mediation and arbitration, reduce the amount of time that needs to be invested into a conflict and money (Estreicher & Eigen, 2010). Organizations that focus on the benefits of ADR due to an increase of efficiency, usually do not focus on the wider and relational organizational benefits of these activities. Rather, they are primarily focused on logistical performance. The emphasis on efficiency benefits indicates that a company places a high priority on lowering legal costs and improving its ability to protect itself from litigation risks (Lipsky, et al., 2017).

This leads to question if there is a link between a firm relying on ADR practices, such as mediation and arbitration, and its focus on improving the level of efficiency. According to Lipsky et al. (2017), it is without doubt that there are costs and benefits for a firm when using mediation and arbitration. How companies perceive these costs, will affect their view on which strategy is more likely to improve their operational performance. An import role in that view play the direct costs associated with the ADR practices. Both professionals and academics agree that mediation is a quicker and less

expensive alternative to arbitration for settling conflicts. Arbitration, in comparison to mediation, is much more formal and less flexible when it comes to the actual procedure. Additionally, in recent years, arbitration has become more time consuming and expensive (Stipanowich & Lamare, 2014). Lipsky et al. (2017) conclude that based on the assumption that mediation generally generates less direct costs than arbitration and the benefits are comparable, companies focusing on productivity favor mediation over arbitration. This is not surprising, because organizations that solely focus on the efficiency aspect, especially in terms of direct cost, do not consider other factors that might play a role when evaluating if ADR is suitable.

The second conflict management goal when organizations have to deal with a dispute, is to enhance a sustainable and satisfying resolutions of these workplace disputes. The implementation of dispute resolution practices by an organization has been related to the organization's attempts to solve internal management issues and inadequacies. This strategic approach is in line with research into the relationship between internal organizational needs and transformation on the one side, and ADR on the other (Colvin, et al., 2006). According to Avgar (2006), a widely used argument by advocates of conflict resolution is that the true strength of the ADR revolution lies in providing managers with improved resources for coping with a variety of contemporary management challenges. Many companies, for example, have become increasingly conscious of the costs of employee turnover and the advantages of maintaining talented workers. Using traditional litigation to settle organizational conflicts frequently means weakening or even losing relationships, rather than contributing to lasting outcomes (Lipsky, et al., 2003). Hence, companies that use ADR to solve these managerial issues hope to develop their problem-solving skills and relational dynamics. This is also underlined by the previously discussed advantages of interest-based ADR options, as they aim at resolving disputes in a way that they are sustainable and satisfy the needs of the parties by focusing on their various interests. Lipsky et al. (2017) conclude that companies whose interest it is to improve the long-term resolution of organizational conflict, rather prefer the use of mediation than arbitration.

To limit an organization's exposure to litigation is the third conflict management goal when dealing with a dispute. As the author showed in "The Rise of ADR" section, what is widely called the "litigation explosion" caused significant delays and increased the cost of resolving labor disputes. As a result, an increasing number of employers, especially in the 1980s and 1990s, turned to mediation, arbitration, and other ADR strategies as an alternative to the high quantity of litigation (Lipsky, et al., 2017).

2.4.2 Commitment of the Organization to ADR

Another important aspect is the commitment an organization makes towards ADR. It's important to differentiate between an organization's strategic approach to conflict resolution and its commitment to making conflict resolution activities accessible to (or even necessary for) its employees. Making this differentiation is relevant because of the fact that a company can choose to implement an ADR practice without committing to its workforce's operational availability (Lipsky, et al., 2017). One of the longest-running controversies in the field of ADR is whether or not the implementation of such approaches represents a sincere commitment on the part of companies to provide workers with real access to these ADR strategies (Lipsky, et al., 2003). This is due to the fact that many organizations adopted HR policies and ADR without allocating adequate personnel or monetary resources to ensure that the policies can be implemented effectively (Lipsky, et al., 2017). There is a controversy of supporters of ADR on the one hand, who argue that implementing these measures may be a powerful instrument for businesses to expand employee access to platforms that can settle and resolve conflicts and opponents on the other hand, who wonder what the real intentions are that drive an organization to adopt ADR (Estricher, 2000). The critique is that firms that use ADR may want to assert the advantages of private dispute resolution processes, but they might not be committed to making these practices a reality. They believe that simply adopting ADR policies gives them advantages related to their (employer) brand and PR however, they assume that the costs of a real commitment to the

implementation of these measures outweigh the advantages, especially from a financial perspective. (Lipsky, et al., 2003)

Lipsky et al. (2017) state that companies vary widely in the degree to which they commit themselves to making ADR activities available and accessible to employees. Consequently, when it comes to ADR, companies make two distinct strategic decisions. First, companies make strategic choices about the goals and expected returns they want to achieve by implementing ADR. Second, companies must decide how much they want to commit to the implementation and availability of ADR practices, as well as access to them. Lipsky et al. (2017) define five ways in which companies can signal their commitment to ADR: availability, mandatory usage, established policy, due process, and scope. In the following they will be explained in more detail:

Availability: The degree to which these dispute resolution practices are made accessible to the organization's employees, among other things, determines the organization's commitment to ADR. One measure that signals a company's commitment to using ADR to address organizational conflict is making ADR activities accessible to a significant portion of the workforce. In contrast, if the availability is more limited, it can be a signal that the firm is not willing to fully commit to ADR and might have reservations.

Mandatory usage: The commitment of a company to ADR can also be shown by the degree to which an organization requires its employees to use ADR practices when a workplace dispute comes up. This approach is one of the most controversial aspects of non-union employers, as they often feel that forcing their employees to sign such waivers is not in their best interest. However, employers who use mandatory ADR make a strong commitment to the process, even if it is driven by a willingness to get a managerial benefit. Furthermore, this is only relevant in the United States.

Established policy: A further indicator of an organization's commitment to ADR is whether it incorporates these procedures into its existing practices, rather than using ADR on an ad-hoc and reactive basis, respectively only when contractual or court orders warrant it.

Due process: Another way for businesses to demonstrate their dedication to ADR is to offer robust due process rights to workers who engage in these activities. Critics of ADR also raised significant concerns about the degree to which employers offer due process rights to their workers and ensure that they are treated fairly while using ADR. The Due Process Protocol is specifically important for the United States.

Scope: The types of conflicts and disputes covered by an organization's ADR policies may be narrow or wide. This means that the scope can be restricted to just one or two types of complaints, but it can also be very broad, including everything from wages, via working conditions, to statutory violations, or complaints about the employee-supervisor relationship.

One can conclude that there is a higher likelihood that companies with a high degree of commitment in a majority of these dimension use ADR, than companies that show a lower degree of commitment.

2.5 Conflict Management Systems and ADR

In this section the author wants to give an overview of the importance of conflict management systems for organizations when dealing with dispute. As shown in the previous parts ADR is very important to solve conflicts. However, ADR often only comes into play when conflicts have escalated. To avoid this and to give the whole idea of conflict management and conflict resolution a better structure, many companies rely on conflict management systems.

According to Lipsky et al. (2003), companies that want to manage conflict must look past the narrow collection of procedures that ADR offers and see the bigger picture, including a broader spectrum of questions, organizational life, and more departments of the organization. In summary it means that

the system becomes more complex, since the goals and objectives are wider and more varied. The goal of conflict management systems is not only to manage their resolution, but they also aim to channel conflict in constructive directions. Because of conflict management systems, the resolution of conflict is not stuck with the high level of the organization anymore, rather, it is spread to all levels of a company. In consequence, conflict management systems require more training, as they intend to transform the organization and not just introduce a set of procedures. Thus, conflict management systems are very complex but offer a potentially high reward to organizations as they lay a good foundation for alternative dispute resolution (Lipsky, et al., 2003).

According to Lipsky and Seeber (2004), there are several ways in which conflict management systems vary, and each one has the ability to produce different outcomes. The systems can vary in their process and design with respect to the people involved, how it is created, and how it is implemented. To set up such a system is not trivial, since the systems always reflect the values that are the foundation for the design process. Furthermore, conflict management systems vary in their structure. Therefore it is necessary to know who controls the system, if it is centralized or decentralized, what the objectives are, and who is made responsible. Moreover, the procedures for resolving conflicts differ depending on the system. The ADR method chosen often represents the principles and values that underpin the conflict management system. There are conflict management systems that value the participation in resolving the conflict. Others, encourage to resolve the conflict as quickly as possible, and still others mainly focus on bringing conflict to light. The solutions that organizations find to reach these objectives are reflected in the approaches used in the system (Lipsky & Seeber, 2004).

Moreover, the participants in the conflict management framework must also be identified and analyzed. One basic difference is how much the structure depends on outsiders to feed it with information and to maintain it. Outsiders could be for instance, consultants or neutral people. However, it is essential to not only rely on outsiders, but to go into the company itself. A key difference between systems is the degree to which line managers are involved and responsible for

resolving conflict. As a last step, it is crucial to examine what a company considers to be critical by looking at the characteristics of the framework they use to assess and evaluate performance (Lipsky & Seeber, 2004).

As for many terms in the field of ADR and conflict management, there is no universally accepted definition of a conflict management system. Lipsky and Seeber, however, argue that “an authentic system is not merely a practice, a procedure, or a policy. It is something more encompassing, which may incorporate all three – practice, procedure, and policy” (2004, p. 35). Alternative dispute resolution and conflict management systems have evolved to a large degree in response to changes in the corporate climate that made their use a viable alternative to traditional litigation. These changes are filtered into a series of organizational motivations, leading to the selection of a conflict management approach by some organizations (Lipsky & Seeber, 2004).

Lipsky et al. (2003), divide conflict management systems into three categories. The first category is the contend category. These are organizations that prefer litigation over ADR and usually never apply any ADR approaches in dispute resolution. The second category is the settle category. These companies use ADR either as part of their policy or on a reactive basis depending on the type of dispute. The last category is the prevent category. These are organizations that regularly apply ADR as part of their policy and that work with conflict management systems with the goal to prevent conflict from emerging or otherwise to manage it (Lipsky, et al., 2003).

As conflict management systems are directly related to ADR, or in other words, since ADR is a part of well-functioning conflict management systems, it is important to be aware of these categories.

2.6 The Role of HR

The role of HR when it comes to dealing with conflict and ADR is crucial. Therefore, it is necessary to understand the influence that the HR department has in this topic.

According to Teague et al. (2015), there are three approaches to conflict management at workplace that describe different ways for dealing with workplace conflict. The first approach “implies that the best way to address workplace conflict is by socializing it out of the organization” (Teague, et al., 2015, p. 17). A second solution envisions organizational conflict being resolved in a particular way, primarily as a result of improvements to organizations' human resources management (HRM) functions. This approach suggest that managers are expected to perform an increasing number of HR tasks, including conflict management. The third approach suggests that the HR department should acknowledge conflict at workplace as a part of corporations' life and develop innovative strategies for its resolution (Bendersky, 2003).

Even though there are major differences among the three approaches, there are also similarities. The assumption that the HR department should manage workplace conflict strategically through the implementation of well-designed policies and procedures that are synced with one another, is one similarity. However, it comes with one big problem. A substantial body of research shows that the HR department, which is supposed to act strategically and at the heart of a company's conflict management policy, usually sees itself rather in an administrative role than in the role of the creator of a conflict management system. The reason why HRM often is not strategic is related to a number of factors. One reason is that HR Managers become used to tried-and-true strategies and procedures, and are unable to take the risk of implementing bold new policies, fearing the resulting organizational instability. Another aspect that works against strategic initiatives from HR is that the HR department in many companies is expected to serve many different roles, making it difficult to establish integrated strategies for specific people management problems, such as workplace conflict (Teague, et al., 2015).

As Legge (1978) stated, to perform multiple roles leads to ambiguity about the role of the department within the company, which has resulted in HR managers experiencing a crisis in professional identity and trust. Additionally, as a result of legacy and position uncertainty, the HR feature lacks the power

and legitimacy to influence change within organizations, which is even more significant. Consequently, only few initiatives with a strategic approach on how to manage people in the company are formulated or implemented. Instead, HR decisions are more likely to be taken on an ad hoc basis, usually as a direct response to a specific issue (Teague, et al., 2015). Thus, Teague et al. (2015) add a fourth approach to the three approaches mentioned initially, which entails dealing with workplace conflict in a piecemeal and ad hoc manner.

Generally, HR administrators are more concerned with issues that need to be fixed than with taking proactive steps regarding conflict management strategy to achieve a strategic or ethical goals. Moreover, HR managers in companies, with or without unions, tend to be adamant about sticking to tried-and-true strategies for addressing workplace issues. Thus, one can state that HR managers approach organizational conflict management in a pragmatic and incremental manner, while mostly sticking to what has proven to be successful and only introducing new practices, when reaction to unanticipated or new issues. In many organizations, HR managers still do not play a strategic role, and as a result, they lack the capacity to effect improvement, even if they wanted to. (Teague, et al., 2015).

This shows that HR has an important role within the whole system but there are various reasons that explain why HR is not always in the position to fill out the role as expected.

3 Research Methodology

The aim of the empirical examination is to make a contribution to closing the research gap. A complete work-up of this research deficit would exceed the scope of this Master's thesis. The methodology helps to understand in which way the researcher can research a topic and approach the work. However, one of the first aspects the researcher needs to be aware of is the research philosophy. According to Saunders et al., this “relates to the development of knowledge and the nature of that knowledge“ (2007, p. 101) and it contains assumptions about how the researcher sees the world. Influenced by these assumptions, the researcher develops the research strategy and methods.

Therefore, according to Adams et al. (2014) it is important to understand that research methodology and research method are not the same. Whereas the research method describes the practical part of the research that is, the method how the research is conducted and implemented, the research methodology is more concerned with the philosophy and science behind it. Moreover, methodology is a way that allows the researcher to understand the various ways of how knowledge can be gathered and created (Adams, et al., 2014). According Adams et al. (2014), this is particularly important because if the researcher understands how information and answers to research questions are produced, one can also understand what may be wrong with them.

Philosophy: There are three main ways one can think about research philosophy: epistemology, ontology, and axiology. Each has significant variations that affect the way the researcher approaches the research process. Epistemology is concerned with what constitutes acceptable knowledge in a field of research or in other words, how one determines what truth is and what the limitations of knowledge are (Saunders, et al., 2007). Crotty defines it as a “way of understanding and explaining how I know what I know” (1998, p. 3). According to Denzin and Lincoln, this leads to the question of the relationship between the person who knows and the knowledge itself, by asking “how do I know the world?” (2005, p.183). On the other hand, ontology is concerned with the essence of truth

or in other words, what the nature of reality is. This raises concerns about the researcher's belief about how the world works, as well as his adherence to specific viewpoints (Saunders, et al., 2007). Crotty defines ontology as the “study of being” (1998, p.10) and Denzin and Lincoln add that it “raises basic questions about the nature of reality and the nature of the human being in the world” (2005, p. 183). Axiology, to give a brief introduction to it, is a branch of philosophy that investigates value judgements. While this can involve aesthetic and ethical principles, one is primarily interested in the process of social inquiry. To be aware of epistemology and ontology is crucial for researchers, as it helps to decide to what extent a study is reliable and valid, which helps to put a paper or study into perspective (Saunders, et al., 2007).

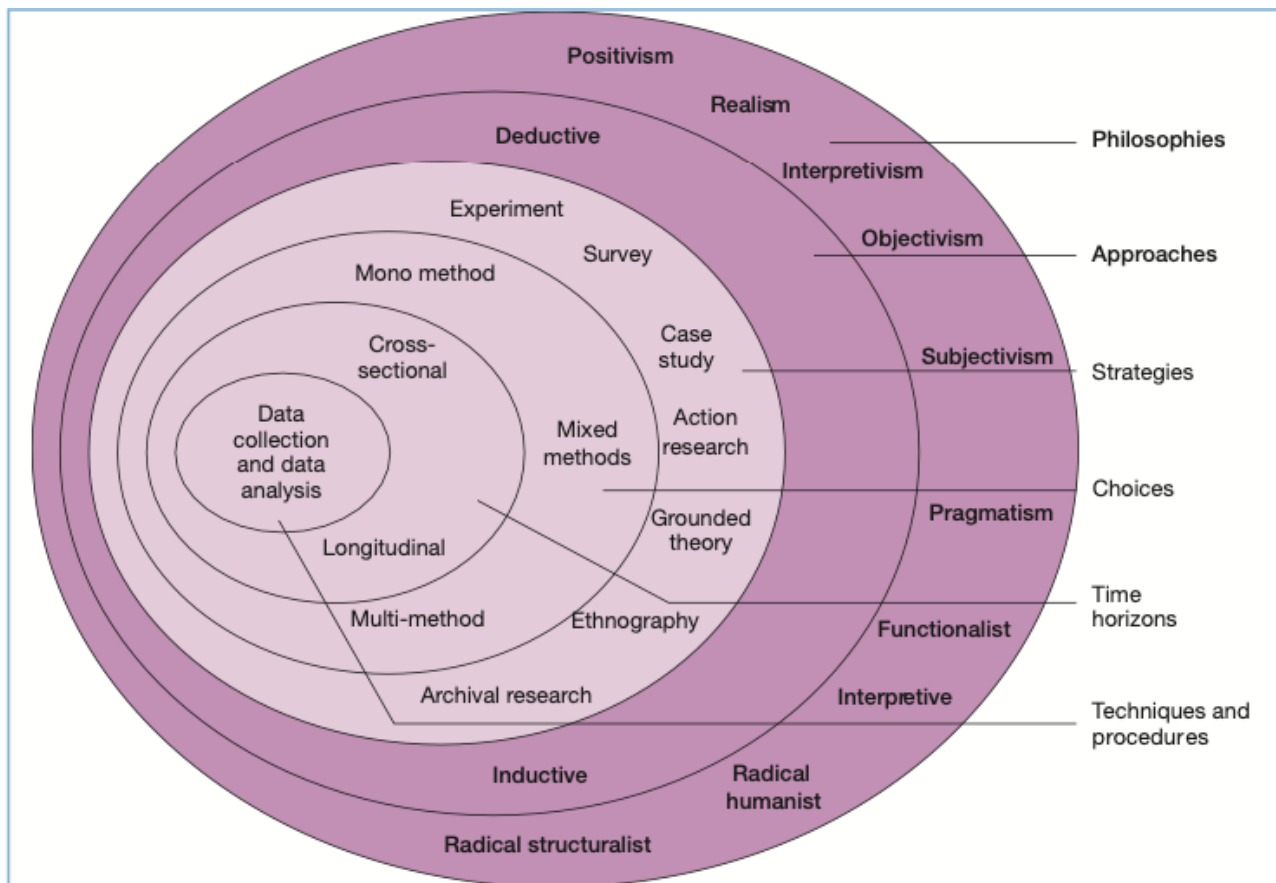


Figure 1: The Research Onion (Adapted from: Saunders, et al., 2007, p. 102)

Each of the philosophies consists of several branches and approaches (Gray, 2014). To discuss all of them is not subject of this work, but the author will give an introduction to the main ones that need

to be considered for this work. Moreover, Figure 1 gives an illustrative overview. According to Saunders et al. (2007), the principles of positivism as a research philosophy most likely reflect the philosophical view point of a natural scientist. These researchers prefer to work with a social reality that is observable and at which end the researcher can receive results that can be law-likely generalized, such as the results that natural scientists get. Consequently, only phenomena that the researcher can observe, will provide credible data. Researchers whose research philosophy is in accordance with the principles of positivism, tend to use an existing theory to develop their hypotheses as a research strategy to gather the data. Another important aspect of the positivist research approach is that research is carried out as far as possible in a value-free manner (Saunders, et al., 2007).

There are researchers who criticize the positivist tradition by stating that the social world of management and organizations is too complex to be able to define laws that allow for generalizations in the same way that results of physical science do. They argue that rich insights get lost, because the actual complexity of this world is reduced to a minimum in order to allow for generalization. However, interpretivism is an epistemology that asks the researcher to understand that humans are different in their roles as social actors, which emphasizes on the difference between researching objects and people (Saunders, et al., 2007).

Saunders et al. (2007) state that for interpretivist epistemology it is crucial that the researcher adopts an empathic stance, which is challenging because the researcher has to enter the social world of the research subjects to understand their point of view of their world. Therefore, Saunders et al. conclude that some researchers “would argue that an interpretivist perspective is highly appropriate in the case of business and management research, particularly in such fields as organizational behavior, marketing and human resource management” (2007, p.107). Following this argumentation, the researcher of this paper takes this perspective for the purpose of this work. This is supported by the assumption that business situations are not only complex, but also unique, as they are the result of a

specific setting consisting of circumstances and individuals. This raises immediate concerns about the generalizability of research that is aimed at capturing the rich complexity of social situations. In this case, according to Saunders et al. (2007), the interpretivist, would argue that generalizability is not of essential importance. For the interpretivist it is necessary to accept that the circumstances in the future may be different from today, which means that to some extent generalization is not possible but also not wanted. The same holds for the assumption that all organizations are unique, which also would make generalizations less valuable (Saunders, et al., 2007).

When it comes to the ontology, there are two main aspects that describe different ontological perspectives: objectivism and subjectivism (Ragab & Arisha, 2018). Objectivism considers reality as a concrete structure that exists independent of humans. Objectivists believe that the world continues to exist as a tangible body, no matter what actions people undertake (Holden & Lynch, 20014). This view is predominantly taken by researchers in the field of natural sciences (Ragab & Arisha, 2018). In contrast to that, subjectivists believe that “social phenomena are created from the perceptions and consequent actions of those social actors concerned with their existence” (Saunders et al., 2007, p. 108). Whereas for objectivists there is only a single reality, in subjectivism there is the possibility of various realities that can co-exist, depending on different perspectives and views of the world. Social events are viewed as a contextual consequence of the behavior and attitudes of social actors who are in a constant state of revision as a result of their social contact (Smircich, 1983). Objectivists, according to Smircich (1983), prefer to see an organization's culture as something that the organization *has*. The subjective viewpoint, on the other hand, is that culture is something that the organization *is* as a consequence of ongoing social enactment. This means, that culture is re-created and formed through a complex set of phenomena, including physical factors and social experiences, which could be the layout of the office, to which people attach specific meanings, traditions, and myths (Saunders, et al., 2007).

What is important to state is that no perspective or approach is better than another. It depends on the context and what the task is that is, the field of research and research questions. Therefore, one cannot argue that research belongs to only one philosophy. It can also be a mixture, especially in the field of business research and fields related to it (Saunders, et al., 2007). However, not only because the personal believe of the researcher, but also because of the aspects and arguments shown in the literature and presented in this chapter, the researcher's epistemology rather follows the principles of interpretivism and the ontology is more subjective in nature. The literature shows that this is valid way to conduct the research of this paper, as this work is mostly concerned with questions that relate to organizational behavior and human resources. The awareness for the philosophy and the associated aspects and perspectives also shapes the idea for the research approach.

Research approach: There are two types of research approaches, the deductive approach and the inductive approach. In the deductive approach the theory and hypothesis are developed and the research strategy is designed to test the hypothesis. Therefore, it is also referred to as *testing theory*. It is widely associated with scientific research, where it is the dominant approach (Saunders, et al., 2007). Deduction follows a well-defined approach and often looks at coincidental associations between variables in order to describe a phenomenon and produce generalizable findings (Ragab & Arisha, 2018). The inductive approach, which also called *bottom-up approach* or *building theory*, starts with specific observations in which trends and associations are established to shape a theory about a specific phenomenon (Trochim & Donnelly, 2008). The generalization of the results is less of a concern than getting a close understanding of the phenomenon that is researched within its context and thus, allows for a more flexible investigation structure (Easterby-Smith, et al., 2002).

Deduction is often criticized by induction supporters because it tends to construct a linear approach that does not allow for alternate interpretations of what is going on, whereas inductive research is likely to be more concerned with the context in which such events occur. Consequently, a small sample of subjects rather than a large number, as in the deductive method, might be more appropriate

(Saunders, et al., 2007). Saunders et al. (2007) suggest that it might be more fitting to perform research inductively rather than deductively if the researcher is more interested in knowing why something is happening rather than being able to explain what is happening. It is important to emphasize that it would be misleading if one would derive the impression that there are rigid divisions between the two approaches. According to Saunders et al. (2007), it is possible to combine the two approaches and in some settings it might even be an advantage to do so. However, when research is done in a topic that is relatively new or where there is not extensive literature existing, the inductive way may be appropriate (Saunders, et al., 2007). Furthermore, an advantage for rather open research questions is that if there is only a broad idea about the topic of the analysis, this is then structured and shaped with the help of interviews i.e., the inductive approach (Blumberg, et al., 2011). This is the case for this research. Based on this and in combination with the subjective ontology and interpretivist epistemology, the research mostly follows the inductive approach in this work.

Research methods: The techniques used to perform research, such as data collection and analysis instruments, are referred to as research methods (Ragab & Arisha, 2018). In general, there are two types of research methods. On the one hand, there is the method of quantitative research. Quantitative research relies on statistics and precise numbers, whereas qualitative research relies on images, objects and / or words. When a researcher applies the quantitative method, research data is usually gathered through surveys, experiments or any other structured method that allows for data-amassment. The aim is to test a hypothesis that has previously been established. In contrast to that, in qualitative research, the researcher uses for example, interviews or participant observations (Blumberg, et al., 2011). According to Baum (2005), qualitative research answers the *what* and *why* and quantitative research gives answer to *how* and *who*. This is also why quantitative research is “based on the methodological principles of positivism” and applied in deductive research, whereas qualitative research is based on the principles of interpretivism and inductive research (Adams, et al., 2014, p. 26; Ragab & Arisha, 2018).

Quantitative research aims at reproducible findings that are generalizable but has the disadvantage that with its research design it is difficult to uncover “underlying meanings of social phenomena, particularly when depth is required in studies of humanistic variables” (Ragab & Arisha, 2018, p. 7).. In contrast, the idea of qualitative research is to adapt a holistic view and to aim “towards the exploration of social relations, and describes reality as experienced by the respondents” and to uncover patterns and themes that emerge from within the data” (Adams, et al., 2014, p. 26; Ragab & Arisha, 2018, p.7). Table 1 summarizes the strengths and weaknesses of the two methods that have been discussed. For the author of this dissertation it is more important to explore social relations and to uncover what would not be possible to be seen with quantitative research, than to seek generalization. However, this does not mean that the author believes that one method is better than the other. It is also possible to mix both methods to offset their weaknesses and support each other (Ragab & Arisha, 2018). Nonetheless, this study will mainly rely on the qualitative method.

	Quantitative Methods	Qualitative Methods
Strengths	<ul style="list-style-type: none"> • Testing and validating previously constructed theories about how phenomena occur. • Research findings could be generalised when data is sufficient and based on a random sample. • Can eliminate the confounding influence of many variables, allowing one to assess cause-and-effect relationships. • Data collection and analysis is relatively less time consuming and provides precise numerical data. • Research results are relatively independent of the researcher. • Useful for large sample sizes. 	<ul style="list-style-type: none"> • Data is based on the participants' own categories of meaning. • Useful for studying a limited number of cases in-depth and describing complex phenomena. • Provides understanding and description of people's personal experiences of phenomena (i.e. insider's viewpoint). • Can describe, in rich detail, phenomena as they are situated and embedded in local contexts. • Can determine how participants interpret constructs • Determine idiographic causation (i.e. causes of events).
Weaknesses	<ul style="list-style-type: none"> • Researcher's theories developed from the data may not reflect local constituencies' understandings. • May miss out on phenomena occurring because of the focus on theory testing rather than on theory generation. • Knowledge produced may be too abstract and general for direct application to specific contexts. 	<ul style="list-style-type: none"> • Findings produced may not be generalised to other settings. • More difficult to test hypotheses and theories. • Data collection and analysis is often time consuming. • Results are influenced by the researcher's personal biases.

Table 1 – Qualitative and Quantitative Methods: Strengths and Weaknesses (Adapted from Ragab & Arisha, 2018, p.8)

Data collection: In general, interviews are popular among both researcher and interviewees, as they allow deep-dives into certain questions or topics and face-to-face interaction (Easterby-Smith, et al., 2002). One distinguishes two types of interviews that depend on the level of their formality that is, structured or unstructured (Ragab & Arisha, 2018). While structured interviews follow a clear set of identical questions that are the same for everyone, unstructured interviews can have the tone of an informal discussion. Furthermore, the questions are not standardized but rather the interviewer covers a list of topics. Depending on the circumstances, it is also possible to alter the questions, which often leads to more insights due to the fact that the respondents have more room to express themselves freely (Ragab & Arisha, 2018). In the course of this, also aspects that were not considered as being important or not considered at all, can attract the researcher's interest. Furthermore, the researcher can ask for further explanations and eliminate misunderstandings (Dicicco-Bloom & Crabtree, 2006).

These are reasons why within the field of qualitative research, interviews are one of the most applied research tools. The interviews follow clear guidelines to ensure some comparability between the interviews and also to ensure a certain degree of structure in the interview process. This ensures that the conversation stays within the desired scope and that the material can be evaluated more easily. Moreover, it helps the researcher to organize the existing knowledge. This technique, where there is a set of predetermined questions as well as a high degree of flexibility to ask new questions is called semi-structured interview (Ragab & Arisha, 2018). One of the main limitations of this approach is the high amount of time that should be taken into consideration. Consequently, according to Ragab and Arisha "the researcher can only conduct interviews with a small sample of respondents" (2018, p.13).

However, in line with what is previously stated, for the present work, the qualitative interview appears to be meaningful, as it allows to uncover underlying meanings, patterns, and gives enough freedom to engage with the interviewee, which enables the researcher to ask questions regarding the individual

attitude and intentions. Therefore, the researcher accepts the fact that the results might not lead to generalizations as it would be the case for quantitative research.

3.1 Questionnaire Design

As stated in the previous abstract, when research is based on a qualitative approach, a common method to gather information is to conduct interviews. However, there are several different approaches, with regard to the style of qualitative research interviews (Kvale, 1983). According to Kvale, a qualitative research interview is “an interview, whose purpose is to gather descriptions of the life-world of the interviewee with respect to interpretation of the meaning of the described phenomena” (1983, p. 174). This means that the goal of interviews is to get an idea of the research topic, not from the own point of view, but from the viewpoint of the interviewees (Kvale, 1983). The author of this thesis will apply this strategy. As a result of this approach, the questions developed for the interviews, are meant as guideline questions so that there is space for further elaborations on questions, to go into more detail where necessary. The idea is to build up on follow-up questions that emerge during the interview, so that the interviewer can react flexibly to the statements of the interviewee and thus, can ask more detailed and further questions.

Against the background of the above information, the following questions were developed and used as guiding questions during the interviews:

- What does ADR / conflict management at workplace mean for you?
- How are conflict management and ADR connected?
- Why do you think is ADR / conflict management is an important topic at workplace?
- Why do you think some firms use ADR and some others don't?
- How can ADR / conflict management help to create a better organization?
- What do you think is needed in an organization to prevent a conflict from even coming up?

- How do you see the role of HR and other influencers in the process of establishing ADR / conflict management systems in an organization? Why is it important?
- What would be needed to make ADR / conflict management more successful and more established?
- How does the ideal future of ADR in organizations look like?

These questions built the foundation of the interviews. However, depending on the expertise and knowledge of the interviewees, some questions have been discussed in more detail than others.

4 Findings and Discussion

In the following section, the author will present the findings of the empirical research. Therefore, the experts from practice who have been interviewed will be introduced and the results obtained will be presented. The findings will then be discussed in light of the theoretical considerations and current state of knowledge, as shown in the previous sections of this thesis.

4.1 Characteristics of the Experts Being Interviewed

Within the scope of this research, the author identified five experts who work in the field of conflict resolution with a focus on conflict resolution at workplace. These people were interviewed on the basis of the questions mentioned above and those that emerged during the interviews. The interviews were conducted with Dominik Wahlig, Nadine Hansen, Treasa Kenny, Denis Blanch, and Jürgen Briem.

Dominik Wahlig has worked as an escalation manager at SAP Germany, was part of the pool of mediators within SAP, is a state-approved mediator, and has lead the Bundesverband Mediation e.V. (German mediation association). Today he works for a German company with 900 employees in the electronics sector in the HR department, where he is responsible for conflict management. Nadine Hansen also is a state-approved mediator. She works in the HR department of a company with 700 employees with a focus on conflict management and organizational development. Additionally, she is an external workplace mediator. The third interviewee is Treasa Kenny. She has experience as a HR manager in various organizations, and has dealt with a variety of tasks, including policy development, training and development, coaching, workplace mediation, and investigation. Furthermore, she has also been an expert witness in court in England. Denis Blanch is specialized on workplace dispute resolution and an experienced workplace mediator. He has been secretary of the ESB Group of Unions as well as chairman of the ESB Group of Unions for 12 years. Today, he is consulting companies in workplace mediation. Lastly, Jürgen Briem has set up and rolled out the first

conflict management system for SAP on a global level. He has lead a team of more than 50 mediators within the company. Moreover, he was head of conflict management systems at SAP and had to coordinate various conflict resolution entities. Today he is an external consultant for mediation at workplace and organizational development.

4.2 ADR in the Context of Conflict Management – What is ADR Today?

In this section, the author will go into detail and elaborate on the different aspects that have been discussed with the experts from the field. As these experts are all, or have been in the past, responsible for dispute and conflict resolution within organizations, the focus will be on their perspective. Furthermore, as the interviewees have either an Irish or German background, the focus has been on workplace disputes that they can relate to, which means that the insights gained mainly consider German and Irish organizations and procedures. This means that the focus of the interviews was often on the aspect of mediation as this is the ADR approach most used in these countries. Approaches such as peer review or arbitration do not play a noteworthy role when it comes to workplace disputes in these countries. However, the aim of this thesis is not to analyze the different ADR practices in detail but to understand the importance of ADR in the context of conflict management on an organizational level. Therefore it is necessary to get an understanding of how the interviewees interpret the meaning of alternative dispute resolution. As the literature already suggests, alternative dispute resolution and conflict management are closely related. However, neither term has a universally accepted definition and this is also reflected in the impressions gained through the interviews. When asked what the meaning of ADR is for them, some answers were similar to a certain extent but also showed a discrepancy in certain aspects.

For Denis Blanch, who has a history of dealing with various aspects of ADR when he represented the ESB union, ADR is a system that suits the organization. One needs to take into consideration that Blanch is biased in a way that part of his job was to solely focus on the interests of the union members and thus, he sees disputes at workplace, without the help of ADR, as the collision of two opposing

sides: “There is us and there is them”. He states that ADR for him offers a forum where what happens is not written down in any handbook and its success highly depends on how people get along. ADR is something where a high level of commitment by both sides and trust by each other is needed. He sees the ADR process itself that is, when the parties are in a room, not as the core of the procedure. For him the strength of ADR is the work that is done outside the room, such as the preparations and alignment on positions, so that when the parties come together in one room, everyone is prepared and it is just the official exchange of positions that the parties have previously agreed on. This assessment of ADR is very transactional and operationally driven.

Kenny states that she sees ADR at workplace as the process of how issues that arise are sorted out. For her, ADR in organizations is always the rather informal back-up option for resolving disputes, whereas the formal ways of dispute resolution are grievance procedures, investigations, or disciplinary actions. Nadine Hansen argues that one needs to consider two levels: one is avoiding conflict and the other is to resolve conflict. She agrees with Blanch when she states that one needs to find a resolution that suits the parties, independent from what the conflict resolution handbook suggests. Hansen distinguishes between labor law conflicts on the one hand and interpersonal conflicts on the other hand. Labor law conflicts are conflicts where someone has crossed a boundary (e.g., sexual assault). There are clearly defined processes for these situations and consequences such as a written warning or termination of the employment contract. These types of conflict are not handled by the people who deal with ADR but by HRM, as pre-defined laws and guidelines need to be followed. However, according to Hansen, interpersonal conflicts are the vast majority of conflicts. She also believes that there is an even higher number in unreported cases than there is for labor law conflicts, but many employees do not report these conflicts because they are not aware that they could do so. Interpersonal conflict at workplace mostly relate to conflicts among colleagues or employees and their managers.

Wahlig questions if the term “resolution” is correct in this context. When asked about his definition of ADR, he states that he would call it conflict clarification. For him, the term conflict resolution arouses false expectations. When speaking of resolution, many would think that after the conflict resolution every problem is solved and there is a good ending however, that is often not the case. The resolution can also mean that an employment contract is terminated. From his point of view, if this happens, then a conflict can be considered as resolved, but to avoid a misalignment between his perception of resolution and the perception of parties at dispute, he calls it conflict clarification. When comparing ADR in Germany with ADR in other countries, especially in the United States, he sees a major discrepancy in the perception of what the role of ADR is. One needs to consider that for Wahlig, as well as for all other interviewees, ADR in Europe mostly relates to mediation. He emphasizes that in the United States, ADR is seen as a way to reduce cost in a conflict. This is the self-perception of mediators and also the expectation of their clients. However, in Europe the expectations of mediators towards their own profession are different: they often have a humanistic or positivistic attitude and want to help to prevent legal proceedings. Furthermore, many people want to become a mediator or be trained in mediation skills as they want to acquire more leadership skills for their own job as a manager in organizations.

Similar to Wahlig, Briem would also change the terminology of ADR slightly. He states that the most important aspect of ADR for workplace is to find appropriate conflict resolution procedures and not just “any alternative” compared to the conventional methods. Thus for Briem the more applicable expression would be “appropriate” dispute resolution. He states that at SAP this has been one major aspect why they set up ADR as part of conflict management, because they realized that every conflict is different and needs appropriate approaches for a chance to be resolved. In this context, for Briem, the various conflict resolution methods have the same validity that is, one cannot state that one approach is necessarily better than the other – it always depends on the specific circumstances. Furthermore, he agrees with Hansen that there is a clear line where one can distinguish between

conflicts where ADR can be a helpful way to deal with them and those where ADR is not an appropriate approach. Since arbitration at workplace is not a relevant topic in Europe, he states that all disputes that are regulated or covered by law (e.g., sexual harassment, fraud, violation of business secrets) are not subject to ADR, as these are topics that lawyers have to deal with.

Even though, the interviewees have all been asked the same question, their responses differ to a certain extent – not necessarily when the term is described but rather when it comes to the actions that are derived from it. These explanations that the interviewees gave when being asked what ADR means for them, go in hand with what the literature has shown: that ADR and conflict are terms that are subject to constant change. As the literature suggests, the participants use the words conflict and dispute interchangeably. However, there is also the opinion that ADR is not enough, and it is not just about resolving specific problems. Furthermore, ADR is always described as a part of conflict management and just as one of the last chances to resolve or clarify a dispute.

4.2.1 ADR and Conflict Management Systems

Especially Briem emphasized on the fact that ADR is an integral part of conflict management. This is in line with what the literature suggests. Therefore, in this section the author will elaborate on the question how ADR and conflict management are related and where, if any, the line can be drawn. The literature review has shown that organizations that want to manage conflict effectively cannot focus only on the set of ADR procedures, but must take the bigger picture into consideration, which means that the systems to resolve conflict become more complex, as the goals are not just focused on a specific dispute at hand.

According to Kenny, the connection between ADR and conflict management is continuum. She states that if an organization does not know how to *manage* conflicts effectively, it creates a negative work environment. Therefore, the task of conflict management systems is to create an environment that encourages creativity through dialogue. It needs to be recognized that if a conflict starts to tip into a

negative direction (for the parties at dispute as well as for their environment), it needs to be dealt with effectively. Consequently, it is important that organizations recognize that they need to have policies and processes in place that help to deal with these situations. Thus, Kenny advocates for a strategy, where companies apply ADR or whatever needed to deal with a conflict, as part of their policy, with the goal to be able to manage the conflict. This approach relates to what she calls preventive conflict management system.

This is in accordance with Briem. He states that when analyzing ADR in its context as it was invented in the United States, it essentially is about resolving conflicts. That means that there is a situation where a conflict emerged and somehow it needs to be resolved. However, for Briem conflict management goes beyond that narrow approach of dealing with conflict. He takes the cultural aspect into consideration. The aim of a conflict management system is to change the company culture, which only can be done when the change is accompanied by workshops, skill enhancements, and regular trainings for personal developments. However, these cannot be standardized trainings (for example, from external consultants who deliver always the same training), but must be precisely adapted to the prevailing culture and situation in the respective company. He emphasizes on the fact that the aim of such a system is not to prevent conflict from happening, but to lay the foundations to deal with it in a prophylactic way. The underlying assumption is that it is wrong to try to prevent conflict from happening, as conflict is an integral part of the culture of an organization, and the better the staff and management can deal with it, the better it is for the overall organization. Thus, the objective of a conflict management system, according to Briem, should be to guarantee that organizations deal with conflicts in the best possible way. This can at one point also include the use of ADR and therefore, conflict management is the overall strategy and ADR plays an important role within that strategy and cannot be seen detached from it. For all interviewees the line between conflict management and ADR can be clearly defined and is drawn at the stage where a conflict has emerged and people have to

actively deal with it and work on it – that is when one is in the area of ADR. This stage is reached, when the parties are unable to resolve the conflict themselves and need help from outside.

Kenny puts conflict management on a different level. For her it is something that is important for everyone within an organization. This means that conflict management is not just the task for people in management positions, but for every other employee as well. Everyone in a company needs to be enabled to recognize conflict and be able to develop own responses, to identify the best possible ways to address it. Kenny concludes that conflict management is about the recognition that creating a positive work environment does not happen by magic and that most employees and managers are capable of managing themselves in a conflict.

All interviewees agreed that conflict management lays the foundation for dealing with conflict and that ADR is a just one tool that helps to resolve it and is applied when the parties cannot deal with the conflict alone. Especially Briem emphasized that the goal should not be to prevent conflict from happening but the objective rather is to deal with it in the best possible way.

4.3 The Role of Mediation in Organizations

One aspect that all interviewees always relate to is especially the role of mediation within the topic. The interviewees, when speaking about ADR, mostly refer to mediation. Therefore, the role of mediation will be further investigated in this section. It is important to mention that a discussion of the various ADR approaches is not subject of this dissertation, however, since mediation often came up in the interviews, it needs to be considered.

Blanch argues that one of the biggest advantages of mediation is that the parties at dispute are in control of the situation. As soon as litigation or arbitration is involved, one gives away control and does not have a say in what the outcome is. Furthermore, other options than mediation often create a sense of winners and losers. In contrast to that the value of mediation for Blanch is that the parties at dispute own the agenda – they decide what they want to talk about. Because mediation is a mutual

process, often both parties feel like winners in the end. Blanch concludes that if that is the case, people are committed to implementing the agreement because they feel that they came up with the solution, which makes it easier to commit to it.

Even though Kenny agrees with Blanch about the importance of mediation for organizations, she also points out that it might allow certain types of behaviors to flourish. The reason for that is that a person may attend mediation, commit to doing something, not do it again to the same person, but behaves in the same bad way to someone else and then start all over again, which would not be a problem since the mediation and its result are confidential. Thus, mediation could be seen as allowing certain people to hide and not experiencing consequences for their behavior.

Hansen emphasizes on the practical importance of mediation as a form of ADR within organizations. She states that mediation then becomes part of the conflict, when the pressure is the highest that is, when the alternative is likely to be a termination and / or litigation (even though a termination always needs to be an option). She also points out that mediation often offers the chance to find out what the real reason for a conflict or a termination is. That means that many people want to resign but no one knows why exactly. A mediation often has the potential to uncover the underlying reasons and in case a conflict is discovered, there is a possibility to fix it without termination.

Briem agrees with Hansen and stresses the importance of mediation to avoid terminations. He states that in Europe the rationale is often that companies save a lot of money when employees stay with them over the long term. Therefore, they have a high interest to use mediation to avoid terminations which lead to high cost of recruitment and losses in sales. This is based on the experience that it can be hard to find someone new for the role, but also it needs time until a new joiner is educated and is as valuable as a long term employee. Thus, taking these circumstances into consideration, companies have a high incentive to uncover hidden conflicts to avoid that employees leave the company while the alternative could be to resolve the underlying conflict. While Kenny agrees with Briem, she sees

one problem in practice: Many companies do realize the negative impact of employees leaving the company due to conflict however, organizations often do not act until they see a formal complaint, but many people quit without thinking about formalizing the conflict and thus, it remains uncovered.

This shows that ADR, more specifically mediation, can play an important role in organizations. Not only by its primary function to resolve disputes, but also by helping organizations to uncover conflicts before they become major disputes that lead in termination. Nonetheless, many companies do not provide the structure that mediators have a chance to uncover conflicts, which relates back to the importance of conflict management systems, with a focus on preventing conflict.

4.4 Why Organizations do (not) Implement Conflict Management and ADR

One part of this dissertation is to answer the question of the impact of ADR on modern and traditional organizations. However, throughout the literature review it became clear that there is no general differentiation among the different types of organizations and their use of ADR – at least not between modern and traditional organizations. If any, then the differentiation is rather between public and private organizations. Nonetheless, the interviews revealed important insights with respect to the question why some organizations rely on ADR and conflict management systems and some other do not. The results will be presented in the following.

According to Kenny, for smaller organizations the answer can sometimes be very simple: they do not know about it. Apart from that, they often might have no interest in ADR, and if there is an issue, HR might consider to bring in an extern consultant to deal with it, which is very reactive and does not show any form of commitment. With respect to what would be considered a modern company, Kenny states that entrepreneurs or founders who set up businesses usually do not want to think about conflict and when something happens, they hope that the problems disappears by itself. Thus, she concludes that for smaller organizations there often is a lack of understanding regarding the importance and significance of conflict. The situation is different for larger corporations, Kenny finds. They often

look at the bottom line that is, they check how much money they spend on lawsuits and internal investigations and then evaluate if a properly rolled out conflict management systems with ADR helps to cut the overall spend. However, there are often also decision-makers who set up a conflict management based on the projected financial savings, but also because they realize that many issues remain unresolved and that needs to be addressed. Therefore, Kenny states that an organization needs to acknowledge that conflict is part of work-life and there are always reasons why conflicts emerge. But to acknowledge this is often the most difficult step and many organizations fear to make that step. She also points out that unions play an important role when implementing a conflict management system or ADR. She states that unions are often supportive as it is in their interest to sort out the conflicts – but it depends on the mindset of the people leading the union.

Hansen and Blanch also emphasize on the importance of the mindset of people involved in the decision making. Blanch states that it depends on how the company sees itself and if the management has enough self-confidence to acknowledge that conflict is real and part of any company culture. He also states that if a company is very small, it does not make sense to employ a mediator however, there can still be employees who know how to mediate – in addition to their core job. Hansen points out that conflicts exist in every company, but in many organizations the business has grown historically without implementing conflict management systems and ADR. Yet, many organizations have single parts of a conflict management system, but they are not linked and connected.

Wahlig agrees that it often depends on the management if a company has a conflict management system and uses ADR or not. The problem he identified during his experience in various organizations is that top-level managers often only have a limited understanding of conflict. Many, not all, have trouble understanding that for many employees conflict is stressful. Generally, he sees advantages for this topic for organizations where the quality of the relationships among the employees plays an important role, as these organizations often are more open to such approaches. A second point that is often a reason for implementing such measures is the operative risk. As soon as conflict impacts

revenue, many organizations also start to consider conflict management systems and ADR. Furthermore, it can also be the case that several employees have an interest in becoming mediators and the management supports it, as they see it as a form of job enrichment – with the positive side effects that these people might stay longer with the company as they are more happy.

When considering the size of a company, Wahlig does not want to specify a number of employees above or below which it makes (no) sense to have a conflict management system. He says companies should look at it in two ways: First, one should set up a conflict management system, including the training of internal mediators. This is suited for larger companies as it needs significant (financial) resources and will in the short-run reduce the profits, which for small companies can already be significant. Second, companies can look at it from a commercial perspective – this also works for smaller companies. They need to consider the cost of setting up the system and cost of mediation versus the cost of a long-lasting conflict and all its effects (for example, employees do not collaborate anymore, sick leave, termination). These costs can be estimated and then a decision can be made. Wahlig also considers a disadvantage of ADR, especially mediation that is, mediation cannot promise a solution. This means that managers still have a risk that mediation does not lead to a satisfactory outcome and even though they have invested time and money into the process, they might need to make an unpopular decision or pursue litigation, where the decision-making is out of their hands.

Moreover, Wahlig suggests that in companies where the relations among the employees significantly influence the success of the organization, the need for conflict resolution is higher than in companies where that is not the case. He states that organizations with more employees with an academic background, who need to collaborate, have a higher interest in not losing these people and one important factor to avoid that, is to effectively deal with conflict. In consequence, according to Wahlig, this means that organizations with a very high share of blue collar employees the incentive to work with conflict management systems and ADR is not as high.

Briem defines three major reasons why he thinks organizations do or do not have conflict management systems or ADR. The first aspect is the type of personality of top-level decision-makers. Many think “who does not like it here, can leave”. This correlates with what the other interviewees have said. The second aspect is the culture of the company. He often heard sentences like “we don’t want to have something like that” with respect to conflict management systems. However, he states that many companies are currently rethinking their approach, but that process does not happen instantly. He takes into consideration family owned businesses that have a very patriarchic structure, where decision are made by the inner core of the family leaders. They often do not have an understanding for the need of conflict management. However, since a new generation is taking over, the process of rethinking their approach is accelerating. Nonetheless, to implement a conflict management system and thus, transform the company culture often can be a long-lasting process, especially in larger organizations. The third aspect he takes into consideration is the type of company (but not in the sense of modern or traditional). He brings the example of a hospital, where in many core processes a conflict management system might not be useful as by definition of the tasks, there needs to work according to a strong hierarchy (for example, emergency surgery). However, these types of institutions also start to look into conflict management systems in other parts of the organization, Briem states.

For Briem the size of the company does not play a role when it comes to conflict management systems and ADR. He states that a small company might not have internal coaches or mediators, but can still work on conflicts systematically based on respect and tolerance. He adds that it is easier to implement that in a small organization with certain trainings and educating some employees to become mediators. These employees then have an eye for conflicts and can flag them before it is too late. Moreover, Briem does not agree with Wahlig, that conflict management systems are rather suited in organizations with a high degree of academics. In his opinion, it solely depends on the company culture and the way people interact with each other – independent of an academic background. He

also sees the role of unions similar to the role of decision makers. When the unions are ideologically shaped, then it can be hard to implement a conflict management system. However, the way a union acts, mainly depends on their leaders, which means that it depends on their mindset.

This section shows that there are many different factors that can influence why an organization might work with a conflict management system or not. Many aspects play a role and there is no right or wrong answer. However, what can be generalized is that it often depends on the mindset of the decision-makers (are they in favor or not) and the evaluation of the possible gains from a commercial point of view. Moreover, the question of the self-identity of an organization is important that is, how important is the company culture and the relations among the employees and management.

4.4.1 How ADR and Conflict Management can help to Create a Better Organization

As shown in the previous section, the intention of ADR in the wider context of conflict management is not only to resolve disputes, but also to create a better working culture. Therefore, conflict management systems play an important role in creating a healthy work-environment.

As Kenny states, work is an important part of people's life and at workplace, just like anywhere else, there are conflicts. If there is no process to address conflict at workplace that is when it can become problematic for the people and the organization. This is the point where ADR and conflict management systems come into play – to provide structured processes to deal with conflict. Kenny emphasized that it is important that companies do not just “tick boxes” and say they have all the policies in place, as it is the actual implementation that matters. In the literature this is referred to as the commitment of companies towards conflict management systems. In most cases, the implementation is the issue, as many organizations do have policies, but many people do not know about them as they are not part of the corporate identity and they are not applied in practice. Thus, there needs to be someone, a group of people, or a department, who takes the lead to implement the change. According to Kenny, the effects of a properly implemented conflict management system go

beyond the idea of just setting up processes for dealing with conflict, they have the power to transform the culture of the organization in a positive way.

Wahlig also points out that a well-established conflict management system creates a positive work environment, where people can focus on their job and employee interaction is collaborative, so that the overall performance of an organization is positively influenced. According to Hansen, another positive aspect of a conflict management system is that the various activities that many companies do to deal with conflict, are interlinked. Especially for larger organizations it is important to bring in consistency when dealing with conflict and this is where a conflict management system helps. Moreover, conflict management systems include workshops and seminars that help employees and managers to become aware of the relevance of a positive working culture, in which conflict is accepted as a reoccurring part.

Since conflict management systems offer a variety of possibilities for dealing with conflict, they help to make the alternatives transparent. According to Wahlig, many decision-makers and organizations do not know how to resolve conflict efficiently and sustainably. For them conflict is something uncomfortable that needs to be dealt with as quickly as possible, neglecting that a too quick processing of a conflict can be disadvantageous for the organization, meaning that the conflict is not resolved sustainably. Thus, Briem mentions two main aspects of conflict management systems and ADR: First, to create awareness that a conflict can be dealt with in a different way than something that needs to be resolved as soon as possible. Part of that is to think about alternative ways, such as ADR to resolve a dispute. Decision-makers need to understand that a conflict needs to be dealt with seriously and with structured processes. Second, the cultural aspect of conflict plays an important role. Many conflicts in organizations emerge due to bad communication. The aim must be that employees talk to each other in a tolerant and respectful way. To canalize the energy that is bundled in a conflict into creativity, is part of a conflict management system. This is how conflict management systems influence and transform the company culture for the better. They help to establish a company culture

where conflicts do not become too big and where the resources that would need to be allocated to a big conflict can be invested in other, more productive areas.

This shows that ADR as part of a conflict management system play an important role in transforming organizations and developing a positive work-environment and company culture.

4.5 The Role of HR and Internal Influencers

ADR and conflict management systems do not come out of nowhere. As shown in the previous sections, it is important that there are advocates for their implementation. One aspect that needs to be investigated is the role of internal influencers, especially of HR when implementing a conflict management system.

According to Wahlig, the topic could be sitting with HR, as they are the department in a company where the human aspect play the greatest role. However, this does not need to be the case, if an organization has other staff sections where the topic could be placed (in larger corporations this could be an independent conflict management division). He states that the deciding factor whether or not conflict management is implemented, mostly relies on the management's viewpoint to it. The topic can only be implemented successfully if it is supported by decision-makers on the management level, who for instance, assign a project manager to deal with it. If that is the case, then HR does not need to deal with it. However, still HR is often the driving force in a sense that they place the idea on the management level, since management often would not come up with it by its own.

Hansen states that the idea of introducing a conflict management system often goes back to individuals who start an initiative for the topic and exemplify such a culture and values. They plant the idea within people's minds and it spreads from there. However, it is always difficult to change an established structure or way of dealing with conflict, as it might contradict with what the management has set up. Therefore, it is important that the management is collaborative and one needs to discuss the status quo as well as the pain points to work on. In order for something to change, the management

must feel as if the idea came from them, Hansen states. Without the backing of the management it is hard to initiate such a change. This is also Blanch's point of view as he states that initiatives need to be driven by "the important people in a company". However he emphasizes that many managers are on the standpoint that if the company does not suit an employee they should find another organization that suits them better.

Kenny sees the role of HR in the process critically. She states that some HR managers have left the role where they add value to the organization, which she defines as managing working relationships between people. She also takes the profile of people, who join an HR department into consideration. She states that many people in the HR department focus on operational topics and not on strategic projects. She reasons that there is a break between the HR department and people who think and act strategically, which makes it hard for HR to influence decision-makers. Another aspect is that the people HR needs to influence look on metrics and numbers. However, this is not something HR can provide for this topic as the cost and savings are very abstract and hard to estimate. Nonetheless, with the advancing digitalization, there might be more chances for HR to quantify their ideas, which will help to place them. Kenny concludes that in her experience a lot of knowledge and wisdom that HR departments had about conflict has been lost and they moved away from it, as HR professional prefer to focus on more modern topics such as recruitment, for example.

In contrast to that, Briem sees HR in a leading role for coming up with innovative concepts regarding ADR and conflict management, as HR is the extended arm of the management and everything a manager wants is usually supported by HR. But he also sees HR in an ambivalent role as they are both representatives of the employer as well as employee side. This puts them in a position that they often cannot argue in favor of one side, which means they might withdraw from such decisions. Another point why HR is not necessarily supportive of new conflict management approaches is because it might go in hand with a loss of relevance for them. They see conflict management systems as a competitor, since without such a system managers always need to consult HR when dealing with

conflict. That might become obsolete after the introduction of such a system. However, Briem states that the board of a company should never decide to introduce such a system without including other hierarchy levels and the HR department in such a decision, as it only has a chance to work if it is widely accepted in the company. The ideal scenario, according to Briem, is when the management is open-minded and supportive regarding such systems and at the same time, from within the company the desire for such systems is brought to superiors. In this scenario the management would give its okay for the implementation, which the organization and lower levels are already awaiting. To reach such a situation, it is important to identify the people who form opinions, especially within HR, to identify their pain-points and to show them, how conflict management systems can help to solve their issues. This helps to gather advocates in all areas of the organization, which increases the chances of implementing a successful and well-accepted conflict management system.

This section identifies and summarizes a key finding: Without the support of decision-makers and influencers ADR and conflict management do not work properly in an organization or will not be introduced at all. This has nothing to do with a company being large or small, modern or traditional, or part of a specific industry. It highly depends on company politics and the access of individuals who want to introduce such a system, to the right people and their ability to convince these people.

4.6 The (Ideal) Future of ADR and Conflict Management

In the previous parts the status quo of conflict management and ADR at workplace has been discussed. However, it is also important to understand what would be needed to improve the current situation. Therefore, in the following it will be discussed what ideal scenarios for the future look like.

For Blanch the answer to this question is obvious. For him the most important aspect is that conflicts need to be uncovered as early as possible, which is only possible when the management is open to new ideas and starts to think of conflict as something that is not necessarily bad. He states that mediators need to become part of organizational life so that they can help to uncover tensions and

possible conflicts at the earliest stage possible. Kenny puts the focus on the training aspect. She states that in an ideal world, every HR training should have conflict, conflict management, and the options for the design of conflict management systems at its core. She points out the importance of data and insights that can be gathered with a properly implemented system for example, understanding why people leave (uncover the often underlying conflicts). All the insights gathered need to be managed by a responsible person from HR, whose job it is to establish processes and systems in the organization that enable people to get the best out of themselves. Furthermore, these information should be shared with the board, which should use them to derive tasks and actions to create a better company culture. Thus, conflict management should be a conscious decision-making process and not a reactive one anymore.

Hansen emphasized that it must be completely normal to talk about conflict. She thinks that if the negative associations that come with conflict disappear, conflict can be used as a facilitator that can help to bring an organization on a higher level, in all areas. To achieve that goal, a system and structures need to be established that fit the organization, that the employees are aware of and are willing to use. For Wahlig mediation plays a key role in the future of conflict management. He is convinced that companies should not only rely on external special expertise but include the competencies of mediation already on management level so that ideally mediation in the sense of resolving a dispute that has escalated is not needed anymore, as the conflict is already solved in its formation phase. He concludes that the conflict resolution task should stay with the management, as they are responsible. Therefore, it is extremely important to educate superiors and management in that field. For Wahlig that is the key for a successful set up of dealing with conflict in the future.

For Briem the ideal constellation for the future is when there is a separate department in an organization with the focus on conflict management, similar to the existing department such as controlling, HR, or marketing. It would be important that there is something like head of conflict management, who is responsible for the successful introduction of conflict management and its

acceptance. This person needs to be someone who is well-accepted in the organization and it needs to be their core-competency. Furthermore, this person should be located relatively high within the hierarchy – no matter of the size of the organization. If that is the case, then conflict management and ADR have a chance to become an effective way to deal with conflict and to positively impact the company culture.

This shows that there is still a lot of room for improvement for the successful future of conflict management systems and ADR. Main aspects that are at the core of the interviewees' suggestions are to increase the knowledge regarding conflict management, especially on management level, to create structures that show the significance of the topic for the organization, and to actively use the possibilities and insights that these systems and tools offer, to create a company culture where conflict is part of work-life but is used in the most effective way to increase the overall well-being of the organization and its employees.

5 Conclusion

After having analyzed both secondary and primary research, the findings of this dissertation are summarized in the following part.

The first research question was concerned with today's meaning of ADR in the context of conflict management systems at workplace. What can be concluded is that today, especially when ADR is referred to the soft approaches such as mediation, ADR and conflict management are seen as one system, where ADR is the tool that comes in as one segment of conflict management, when a conflict has reached a stage where a third party is needed to help resolving the conflict. Thus, ADR is seen as a part of conflict management, and when discussing ADR, people from practice nearly always refer to the broader and more strategic term conflict management and not just ADR. This dissertation has shown, that the two terms today are closely connected, which is also proven by people from practice as they speak of a *continuum* between ADR and conflict management. However, as part of the same system, one can differentiate between preventing conflict, which is part of the early stages of conflict management and resolving conflict, which is the task of ADR at a later stage, where support is needed to find possible resolutions. Since ADR is mostly referred to as conflict management, the question has been raised if the term "resolution" is adequate. Primary research has shown that when implementing ADR in practice, it is not always about resolving a conflict, but finding *appropriate* alternatives to deal with. Moreover, the aim of *clarifying* a dispute can help to set the right expectations, since the term resolution often raises hopes that cannot be fulfilled. Since every conflict is different, it is important to find the appropriate approach to deal with it, but ideally the conflict is already identified as such in an earlier stage of the conflict management system. One can conclude that ADR at workplace is not seen as a stand-alone approach to resolve conflict, but as an integral part of a conflict management system, with the aim of recognizing and resolving conflict at the earliest stage possible.

The second research question dealt with the question why some organizations implement ADR and conflict management systems and some others not. One could assume that this question can be answered based on objective metrics such as company size or if the organization is rather traditionally aligned or modern. However, if at all, that is only partially the case. The research related to this question has shown that the answer is mainly subject to three factors: mindset of decision-makers, existing company culture, and type of company (type in the sense of hierarchical structures needs as in a hospital). There are also some factors that need be considered regarding the size, but they are mostly related to the mindset of the decision-makers. For instance, smaller organizations often do not see the (financial) advantage or they are not aware of conflict management systems and ADR. There often is the assumption that one can react on an ad-hoc base to conflict. This is also the mindset of many entrepreneurs who set up a company: They do not want to think about conflict and see it as something that disappears automatically or can be dealt with in a reactive way. Also the profitability plays a role: If an organization has an idea about how much they spend related to conflict, it can help to implement a conflict management system, if the (financial) advantage is seen. However, these costs are often hard to quantify, which makes it difficult to provide decision-makers with a return on investment calculation – which is often needed, especially on board level, to underline decisions. Nonetheless, with an open mindset of decision-makers towards ADR and the willingness to implement a conflict management system, all of these factors can be overruled – independent of the size of the organization. It is without doubt that a small organization does not need to employ full-time mediators, but either mediators can be brought in from outside the organization or willing employees can be educated in mediation skills. The second point that needs to be considered is the current company culture. Often organizations have grown over many years and for example, in the case of family owned businesses, are operated in a patriarchic structure. If that is the case, then it is often difficult to convince decision-makers of change and also the company culture might not be open for conflict management systems that transform the organization. In that case, it might be necessary

to only implement parts of a conflict management system and step by step include more, while gradually adapting the company culture. Moreover, it is always easier to implement such a system in young, small, and agile companies than in a global organization. Thus, there needs to be the willingness of the whole organization to change – if that is not the case, then it is difficult, if not impossible, to implement a conflict management system with ADR.

The third point is that some organizations simply are not made for dealing with conflicts the way ADR does. However, this is subject to change, as a new generation is taking over, which is used to a different (less hierarchic) working style. Additionally, a healthy work-environment is appreciated by most employees (which is important regarding the brand as an employer), which is why also organizations like hospitals start to think about conflict managing even though, it cannot be done in the same way than in a regular, less hierarchical company.

What became evident throughout the research is the importance of the decision-makers and therefore, it was also important to understand how they are influenced. A major role in that process plays the HR department of larger organizations or individuals with interest in the topic in all kinds of organizations. HR is often the driving force that places the idea of ADR and conflict management systems on management / board level. HR itself is often influenced by individuals who seek to roll out such a system. What is important is that the people who deal with the topic from a HR perspective need to have a strategic mindset and not just hide behind operational tasks. Summarizing, one can state that the ideal ground for the implementation of conflict management systems is when open-minded managers encounter an organization and employees that have articulated their willingness for such a system bottom-up.

The third research question that was examined, concerned the question how ADR and conflict management systems can help to create a better organization from a cultural perspective. The most important result regarding this question is that companies need to be committed to ADR and conflict

management systems and implement them. It is not enough to just formalize policies that are unknown and not part of the organizational life. It is the implementation of these policies that matters. To implement such a structure properly, it is necessary that ideally one person who has the mandate to do so, takes the lead and the responsibility for establishing a conflict management system within the organization. The research has shown that if organizations do not know how to manage conflict effectively it creates a negative work environment, whereas a fully implemented and integrated conflict management systems causes the opposite. The purpose of a conflict management system is to encourage a positive work-environment through the effective handling of conflicts. A big part in that plays communication. Since ADR focuses on the resolution of conflicts, conflict management systems focus on the cultural aspect. Such a system aims at transforming the culture with workshops, trainings, or skill enhancement, everything with the focus on accepting conflict as part of organizational live, dealing with conflict, and effective communication. One must understand that the aim of such a system is not to prevent conflict from happening but to prepare the organization to deal with it in the best possible way. As conflict is an integral part of organizations, conflict management systems help to canalize the energy that a conflict usually consumes and directs it into more productive areas. A requirement for the successful implementation of a conflict management system is that leaders and employees understand that a positive work environment is not something that happens without further ado, but that everyone in an organization needs to actively take part in shaping it. The findings presented in this dissertation emphasize the positive effects of ADR and conflict management systems on organizations but they also show that the projected successes from it cannot be taken for granted and the positive effects of the change need some time to develop.

After the analysis of what previous research has found and the evaluation of the findings obtained throughout the interviews, one can conclude the hypothesis that many (modern) organizations do not value the advantages of ADR and conflict management high enough to implement it, cannot not be proven. The reason for that is that it is not possible to define specific metrics from which conclusions

can be derived if a company implements ADR and conflict management systems or not. The research has shown that it is always a combination of various factors but if an organization is modern or traditional is not the main one.

5.1 Future Outlook

Already today it is important that leaders acknowledge that a healthy work-environment is one key driver why employees stay with a company or decide to join. For the future one can expect this trend to strengthen. Especially in times of a global pandemic, many employees (re-) consider what is important for them at workplace. The personal well-being, and this depends to a very large extent on how an organization deals with conflict, plays a key role in these considerations. Therefore, the pressure on organizations, independent of their size or structure, to implement conflict management systems that help to transform the company culture for the better and to work with ADR to resolve disputes, is likely to increase. Otherwise many organizations will have trouble binding their employees and creating an employer brand that makes them attractive to new candidates. Thus, the topic, which already has a high relevance, is expected to increase importance, especially in those organizations that are not yet aware of the advantages of ADR and conflict management for the overall organization.

5.2 Limitations

In this dissertation the author focused on providing insights to the research questions. Since the different specific ADR approaches have been widely analyzed and discussed by previous researchers, this has been excluded from the scope of this thesis. Therefore, the author did not include statistics from previous work (for example, which ADR approaches are most common), as these do not provide value for the present work. Furthermore, since the interviews were conducted with interviewees from Ireland and Germany, who refer to ADR mainly as mediation, the focus has been on this topic. If one would want to include other approaches, such as arbitration or peer review panels, to mention some,

it would be necessary to focus on ADR and conflict management systems in the United States and interview people with first-hand experience such as lawyers, for example. This has not been part of the scope of this work. Furthermore, the author does not claim that the results obtained in this work are generalizable, but they present a picture of the current status quo, which can be used as a basis for future research. It can also be stated that much of the research in this field is done by researchers in the United States. The insights on the field with a focus on European countries is very limited. Future research can put the focus on European countries so that one can better understand the differences between the systems and get more insights on a country specific level.

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7 Appendix

7.1 Summary of the Interviews

Interview with Dominic Blanch

Definition of ADR

- ADR is a system that suits the organization, most work is done outside the room
- Personal changes impact ADR a lot
- What happens is not written down in any handbook, most depends on how people get along

Alternative to ADR

- If not ADR, then it is always us against them

Influence of ADR / conflict management on an organization

- Create better organization

How to implement ADR / conflict management?

- It comes from the top of the company, it needs to be driven by the important people of the company. “This is the style of this company, and if it does not suit you, maybe you should find another place”

Mediation

- When you go in, you can decide what you want to talk about and not the mediator.
- The mediator arranges the discussion in a nice way, but we are the owners of the discussion and of the outcome.
- Both parties should feel like winners in the end, if you have that, then people are committed to implementing the agreement because they feel that they came up with the solution and are committed to it.
- Mediation has the big advantage that it can uncover conflicts at a very early stage (pre-mediation) and prevent conflicts from becoming big

Why some companies don't use ADR?

- Depends on how the company sees itself, and if the management has enough self confidence

Is there are size for companies to have mediation?

- If the company is too small, it doesn't make sense to employee mediators
- However, many companies can have people who know how to mediate.
- People who are trained and who do it in addition to their job
- HR people often does not do it, because mostly they know the people in the dispute

Interview with Treasa Kenny

Definition of ADR/ conflict management

- It is about how issues that arise get sorted out
- Formal rounds of conflict management
- Mediation came in, which is rather conflict management

How are ADR and conflict management connected?

- Continuum, if we don't know how to manage conflict effectively it creates a negative work environment.
- Environment that encourages creativity through dialogue.
- Conflict management is not just important for leaders, but for everyone in an organization
- Conflict management is about the recognition that creating a positive work environment does not happen by magic
- ADR comes into play when the people need others to help them.

Why is it important at workplace?

- at work, just like everywhere else, there are conflicts.
- If there are no processes to address conflict then that's very problematic for people and organizations

Why some companies don't use ADR / conflict management?

- Small organization don't know about it and have limited interest.
- Entrepreneurs don't care about it.
- Larger organizations look at operative figures and make decisions based on that.

Role of HR

- HR has given away lots of power and knowledge in that field.
- People in HR nowadays are often operational and not strategic.
- HR cannot provide numbers how much a conflict costs

How ADR / conflict management can impact an organization

- Organizations need to acknowledge that conflict is real
- Helps them to identify issues early
- System needs to be implemented, not just policies written down
- Lots of training and workshops help to increase knowledge about conflict and how to handle it

Ideal future of ADR / conflict management

- Every HR education program would have conflict, conflict management, and the options for the design of integrated conflict management systems at its core
- System is completely fitted together
- Full awareness why people leave an organizations (uncover underlying conflicts)
- HR is responsible for the management of the system (one responsible person)
- Board uses information to derive actions and identify patterns and trends
- Handling of conflict is not reactive anymore

Interview with Nadine Hansen

Definition of ADR / conflict management

- As soon as two or more people have a conflict and want to have it resolved we talk about conflict management. Once a specific approach is taken, like mediation, we talk about ADR

Why is the topic important at workplace?

- There are two levels of conflict: those that are subject to laws and those that can be resolved internally. The latter is the larger amount of conflict and that is why it is important to be able to handle them within an organization.
- The main purpose is to avoid that people have to suffer due to a conflict but also to save cost

Why some companies don't use ADR / conflict management?

- Often due to historical developments
- Many companies have single parts of conflict management systems but they are not connected as a system
- There needs to be an understanding of conflict and people need to be interested in the topic, which is sometimes not the case
- Mostly the implementation of such a system goes back on individuals with a high interest in the topic

How can change in the system be implemented / role of HR?

- Important to attract leaders with the wish to implement such a system as leaders are often responsible for the status quo
- Talk to relevant people and understand their pain points.
- For the management new ideas need to feel like as if they come from them.
- Without the backing of leadership no such system can be implemented.

Ideal future of ADR / conflict management

- It needs to be normal to talk about conflict, ideally directly among employees

- Conflict needs to be considered as something normal and not necessarily bad.
- Structures and systems need to be in place and everyone needs to know about them and also use them.

Interview with Dominic Wahlig

Definition of ADR / conflict management

- Conflict clarification is the better wording, since conflict resolution raises often hopes that cannot be fulfilled.
- The resolution of a conflict can also be the termination.
- In Germany ADR is mostly mediation

Why some companies don't use ADR / conflict management?

- Leadership does not see conflicts as something important, cannot understand conflict
- Managers often don't see that employees are bothered by conflict
- To establish a conflict management system in-house is rather for larger organizations
- For smaller companies it is important to make the calculations and see if ADR could save money and then they can hire someone external for instance, for a mediation
- In general, if ADR is used or not does not depend on the company size but on the culture that one wants to have
- The more important the relationship among the employees, the higher the probability that an organization uses conflict management systems and ADR
- In companies with many blue collar workers, the relationship among employees might be less important and therefore, they might not implement such systems
- Argument against mediation: success cannot be promised

How can change in the system be implemented / role of HR?

- The topic should be located in the HR department, since they deal with the human aspect of an organization
- The most important aspect for a conflict management system to be successful is determined by the backing of the management
- Management needs to drive the topic and chose a person who is responsible for its implementation
- HR often puts the idea in the managers' minds

Ideal future of ADR / conflict management

- More and more companies realize that it benefits them if they consider conflict as part of their organization
- Ideally many competencies of mediation are already part of the leadership. The earlier the conflict is tackled the better, therefore, larger companies should educate their managers regarding conflict.
- The resolution of conflicts should stay in the hands of managers since they are responsible for managing the people they work with.

Interview with Jürgen Briem

Definition of ADR / conflict management

- “appropriate” dispute resolution would be the better description
- Conflict management at workplace is about finding the appropriate alternative to a dispute
- Every conflict belongs in the area that can help best to resolve it

How are ADR and conflict management connected?

- Conflict resolution is just about trying to resolve a dispute that is already at a late stage while conflict management is about the overall cultural aspect.

- Conflict management includes trainings, workshops, personal development as part of conflict “prophylaxis”
- Conflict should not be prevented (difficulties to describe what is meant) in the sense of avoided but one needs to make sure that an organization can deal with conflict in the right manner. Therefore, conflict management should prepare an organization on how to deal with conflict

Why is the topic important at workplace?

- It helps to show organizations the importance of conflict at workplace and how to deal with it in a sustainable and efficient way.
- Usually, organizations believe that conflict is something bad and just want that it disappears as quickly as possible
- Conflict management systems help to show that the quick resolution of a conflict at all cost is not sustainable
- ADR is important in a first step to resolve urgent conflicts, but then conflict management should be established to tackle conflict at an even earlier stage, ideally before it emerges
- Own experience: as soon as there is a conflict management system, many employees show their interest in the topic

Why some companies don't use ADR / conflict management?

- Three main reasons: mindset of decision-makers, current company culture, type of organization
- Company size does not really matter, also a company with ten employees can use ADR. They would not have full-time mediators employed, but can consult someone external.
- Also small companies can work systematically on and with conflicts
- They can also have some employees with mediator skills that can help to discover conflict early

- It does not depend on blue collar or white collar workers: the main aspect is the company culture. If employees shall have a good relationship then conflict management systems should be implemented either way.

How can change in the system be implemented / role of HR?

- Role of HR is extremely important as they work hand in hand with managers
- If HR does not want something, then also leaders usually don't want it
- HR has an ambivalent role as they are both responsible for the employer and employees so it is often hard for them to pick a side
- They also often see conflict management systems as a competitor since it might mean that managers do not come to HR anymore when they have conflict
- It is important to identify those in HR who have an interest in implementing a conflict management system. Then it is necessary to understand their pain points
- In larger companies it should never just be the board that decided whether or not a conflict management system is implemented. HR should always be involved
- Ideally management is open to conflict management systems and there is a wide interest in the organization as well that HR is aware of

Ideal future of ADR / conflict management

- Conflict management is an own department with a responsible person as its leader
- One person needs to be determined who is responsible for the implementation and success of the system. This person needs to be ranked relatively high within the organization.
- It should be a full-time position and not just one part of many tasks