

CHAPTER 1

## INSTITUTIONAL FRAMEWORK

### A. INSTITUTIONAL FEATURES

#### 1. Establishment of the Hellenic Authority for the Information and Communication Security and Privacy (ADAE)

ADAE has been established under Law 3115/2003, according to article 19 par. 2 of the Hellenic Constitution. According to article 1 of its founding law, its purpose is to protect postal mail privacy as well as the free correspondence or communication in any possible way. The concept of communication privacy and security includes monitoring of compliance to the conditions and the procedures of the waiving of the right to communication privacy.

ADAE is an independent authority, which has been granted self-governing independence. Its seat is in Athens; however it may establish and operate offices in other cities throughout Greece. ADAE is responsible to submit its decisions to the Minister of Justice under its care, while at the end of each year a report of its activities is submitted to the President of the Parliament, the Minister of Justice and the Parliament parties' chairmen who are represented in the Greek and the European Parliament.

ADAE is subject to parliamentary examination, in ways and procedures that follow current parliamentary rules.

#### 2. Member Obligations

The members of ADAE are legally bound by confidentiality upon exercise of their duties; they are obliged to confidentiality even after their participation to ADAE has been terminated. Each year, the members of ADAE submit their assets statement to the Supreme Court's Prosecutor office as it is determined by Law 2429/1996 (Greek Government Gazette (FEK) Issue No155 A').

#### 3. Restrictions and incompatibilities of membership in ADAE

According to art. 4 Law 3115/03, the members of ADAE are subject to the following restrictions:

1. No individual may be appointed as a member of ADAE if :
  - a) he/she has been sentenced by judgment which is res judicata for an offence that would prevent an appointment or would lead to the dismissal of any public service, according to the provisions of the Civil Service Code,
  - b) he/she is a partner, shareholder, member of the board of directors, manager, employee, consultant or researcher in a sole proprietorship or otherwise organised enterprise, which has activities in the fields of postal services, telecommunications, informatics, and processing of personal data.



2. An individual is deprived of his membership status in ADAE if:
  - a) he/she has been sentenced by judgment which is *res judicata* for an offence that would prevent an appointment or would lead to the dismissal of any public service, according to the regulations of the Public Servant's Code.
  - b) he/she becomes a partner, shareholder, member of the board of directors, manager, employee, consultant or researcher in a sole proprietorship or otherwise organised enterprise, which has activities in the fields of postal services, telecommunications, informatics, and processing of personal data. In case members become in possession of company shares or stocks of the above enterprises, obtained during their service by hereditary right, they are obliged to refrain from exercising the participation and voting rights in administrative, management and control authorities of the enterprises concerned, up to the end of their service in ADAE.
  - c) he/she proceeds in actions, undertakes a task or project, or obtains another status that, at the discretion of ADAE, cannot co-exist with his/her duties as an ADAE member.
3. During their service, ADAE members are not allowed to exercise any public function or profession and to undertake any other duties, either with or without remuneration, in the public or private sector. The members of ADAE are allowed to practice instructive duties as members of the teaching staff of universities under full-time or part-time employment, apart from the President who is employed on a full-time and exclusive basis.
4. The dismissal from membership in ADAE, as a result of a *res judicata*, as well as the acceptance of resignation is decided by the Minister of Justice within a period of fifteen (15) days after receiving the notification of the resolution of the Conference of Presidents of the Parliament, according to passage a', par. 2 article 4 of L 3115/03. ADAE ascertains the remaining restrictions and incompatibilities, described in the same article, in absentia of its member, who is presumed to present the incompatibility. The final decision is made following a hearing of the member concerned. This entire procedure is set in motion by the President of ADAE or the Minister of Justice. The decision reached by ADAE can be brought before the Disciplinary Board of ADAE and it can be contested by either the member for whom the decree was issued, the Minister of Justice or the President of ADAE.

#### 4. Disciplinary procedure for ADAE members

The following disciplinary procedure concerning members of ADAE is provided for under art. 5, Law 3115/03:

1. Members of ADAE are liable to disciplinary action for each and every violation of their obligations, as provided for by law. The Minister of Justice sets in motion the disciplinary procedure before the Disciplinary Board of ADAE for the President, the Vice-President and the members of ADAE, while the President of ADAE can initiate the procedure concerning the Vice-President and the members. The Disciplinary Board decides the member's discharge or suspension at the first and final instance.
2. The Disciplinary Board consists of a Vice-President of the Council of State as chairman, a Member of the Supreme Court and three Professors of the Law School. An employee of ADAE acts as Secretary of the Board. The President, the Secretary and the Members of the Board are appointed together with an equal number of substitutes. For the Board's Members who are judicial servants, a decree of the acquainted Supreme Council of Judicature is required. The Board is formed by decision of the Minister of Justice and it carries a three-year term of office. The Minister for Economic Affairs and Finance and the Minister of Justice define the remunerations of the President, the Secretary and the Members by common ministerial order.
3. All details regarding the ADAE members' liability to disciplinary action as well as the disciplinary procedure are adjusted according to the Internal Administration Regulation of ADAE.

#### 5. Jurisdiction

In accordance with article 6 of L.3115/03, ADAE has the following duties:

- a) It puts into effect scheduled and emergency auditing procedures, *ex officio* or upon complaint, of installations, equipment, archives, data bases and documents of the Hellenic National Intelligence Service (NIS), of other civil services, corporations and enterprises of the civil sector in general, as well as of private corporations that engage in postal, telecommunications, or other services concerning networking and communication. Monitoring is executed by a member (or members) of ADAE. Moreover, an ADAE employee participates in the monitoring process in order to provide secretarial support, as commanded by its President. The personal attendance of the President of ADAE is required for the monitoring of archives kept for reasons of national security.
- b) It receives information regarding its mission from the services, organisations and enterprises reported under "a", as well as from the supervising Ministers.
- c) It summons hearings of administrations, legal representatives and employ-



ees of civil services, organisations, legal entities and enterprises mentioned under element "a" as above, as well as of every other individual whom it considers capable of contributing to the fulfilment of its mission.

- d) It proceeds to the seizure of means of confidentiality violation as it perceives them during its function and is appointed as their receiver-manager, until the final verdict of the competent courts. It proceeds to the destruction of information, evidence or data, which were obtained illegally by means of communication privacy violation.
- e) It examines complaints regarding the protection of the applicants' rights, whenever they are offended by the fashion and procedure of waving of communication privacy.
- f) On the occasions described in articles 3, 4 and 5 of L. 2225/ 1994, ADAE proceeds only in monitoring the compliance to the terms and the procedures of waving of communication privacy, without taking into consideration the judgment of the competent judicial authorities.
- g) It maintains archives of classified correspondence, according to passage "b" of par. 2 of article 12 of L.3115/03.
- h) It cooperates with national authorities, relevant authorities of other countries, European and international agencies, on issues that fall under its jurisdiction.
- i) It publishes and submits to the Parliament an annual report giving detailed information about its functioning and acts, underlying cases of negligence, presenting key observations and suggesting appropriate legislative changes in the field of securing the confidentiality of communications subject to the provisions of the founding law (article 1.par.2 L.3115/03)
- j) It delivers its opinion and issues recommendations and propositions regarding the measures of securing the confidentiality of communications, as well as the procedure of waving of communication privacy.
- k) It issues its Internal Administration Regulations, which are published in the Greek Government Gazette and must be in accordance to the provisions of the Hellenic Code of Administrative Proceedings.
- l) It issues legislative acts which are published in the Greek Government Gazette and by which every procedure and detail regarding its aforementioned powers as well as securing of the confidentiality of communications in general, is determined.
- m) It establishes a Financial Management Regulation, which is submitted to and approved by the Minister of Economic Affairs and Finance.

In order to ascertain the infringement of security of confidentiality legis-

lation, ADAE members and personnel, excluding assistant personnel, maintain the powers and rights that are provided for under L. 703/1977, as this applies currently. In addition, they possess the right to monitor the books and data of enterprises and organisations as provided for under the Presidential Decree 186/1992 (Books and Information Code), excluding their seizure or acquisition, as well as all kinds of files, books, data and remaining documents belonging to the individuals monitored, to engage inquiries in their offices and remaining installations and, finally, to receive statements under or without oath, depending on their judgment, under the reservation of article 212 of the Code of Criminal Procedures. The relevant terms, restrictions, penalties and sanctions of Law 703/1977, as is currently valid, are imposed mutatis mutandis in case of refusal to provide evidence, interception or distress of ADAE in its function, subject to the application of the sanctions provided for under the current law.

ADAE may decide to form permanent and emergency committees as well as working groups so as to perform research and examination of special interest issues that correlate to issues of its jurisdiction, in which individuals that are not members or do not belong to the personnel of ADAE may participate. The work of the committees and working groups is directed by members of ADAE. The proposals and opinions of the committees and working groups are submitted to ADAE, which decides on any publication of the final conclusions.

In order to oppose the ADAE decisions enforcers, an application for revocation, as well as administrative appeals provided for by the Hellenic Constitution and national legislation, may be processed in the presence of the Council of State. Judicial remedies against the decisions of ADAE may be exercised by the Minister of Justice.

ADAE is presented as a self-governed institution in all kinds of trials that involve its actions or omissions. It is judicially represented by members of the State Legal Service or by members of its own Legal Department.

In addition, ADAE may examine, supply and service contracts, concerning issues that affect its function and jurisdiction. The provisions of the European Union Law, the provisions governing contracts entered into by bodies dependent on a public authority and the relevant Regulations of ADAE govern contract implementation. These ADAE regulations are approved and modified by a common agreement between the Minister for Economic Affairs and Finance and the Minister of Justice.

## 6. Function of ADAE

ADAE meets within or outside its headquarters, if previously arranged, regularly (at least once a month), or extraordinary upon the President's or two (2) of its members' request. The participation of at least three (3) members of ADAE in the meetings determines their quorum. Decisions are made by an absolute majority of the present members. In case of equality of votes the President's vote prevails, while in case of his absence, the Vice-President's. The unjustified absence of a member from three (3) consecutive ADAE meetings results in his/her dismissal, in accordance with paragraph 4 of article 4 of the current law.

The agenda topics are defined by the President and their introduction is performed by the President or by another member appointed by the President. The decisions of ADAE are justified, registered in a particular book and publicly announced, if possible, unless they are related to matters of national defence or public safety. Moreover, the meetings' minutes as well as the cases' files that have been handled by ADAE are made available to those directly concerned, unless they are related to matters of national defence or public safety. In any case, ADAE is required to withhold information and data concerning natural and legal persons, which might assail their personalities or adversely affect their professional or social status, unless it is otherwise dictated by law.

Members of ADAE act collectively upon exercise of their duties. The President is charged with coordinating and managing its services, as well as monitoring the execution of its resolutions, conclusions and remaining actions. Following the President's decision and the assent of ADAE, specific powers, including duties of management or administration, may be assigned to its members or personnel. Following the President's decision, members or other ADAE authorities may be empowered to sign documents or other ADAE operations "by Presidential command". ADAE is judicially and extra judicially represented against third parties by its President or by its Vice-President in case the President is impeded. In case the Vice-President is also impeded, ADAE may assign its representation regarding a specific act or action or a specific group of acts and actions, to another ADAE member.

The required funds for the operation of ADAE are registered by a similar institution in the budget of the Ministry of Justice, as proposed to the Minister of Economic Affairs and Finance by the president of ADAE, who is also its

expenditure's authorising officer. The relevant expenditure is settled by the authorised Agency of Financial Control (YDE) and is subject to the preventive and repressive auditing of the Court of Auditors, by law.

## B. ADAE STAFFING

### 1. The Board

According to the provisions of article 2 of Law 3115/2003, ADAE Board consists of the President, the Vice-President and five (5) more members with their alternates, who must possess the same attributes and qualifications. The President, Vice-President and members of ADAE are appointed by the Hellenic Parliament, under paragraph 2 of article 101A of the Hellenic Constitution and according to the procedure provided for by Parliament Regulations. They are commissioned by decree of the Minister of Justice within a period of fifteen (15) days after the Parliamentary Chairmen have delivered their opinion to the Minister of Justice. By Decision No. 125807/30-7-2003 of the Minister of Justice (Government Gazette Issue No. B 1072/1-8-2003) the following members of ADAE were appointed:

#### Members

**President:** Andreas Labrinopoulos, Electrical & Mechanical Engineer.

**Vice-President:** Vassilis Koutris, former Director, Hellenic Telecommunications Organization (OTE S.A.).

#### Regular Members:

Michael Karantzias, Judge Emeritus of the Supreme Court.

Christos Kapsalis, Professor at the National Technical University of Athens.

Iakovos Venieris, Professor at the National Technical University of Athens.

Stavros Skopeteas, Attorney Emeritus.

Constantinos Maravelas, former Director, Hellenic Telecommunications Organization (OTE S.A.)

#### Regular Members Alternates:

Dimitris Dedousis, Counsellor Emeritus at the Court of Auditors.

George Stasinopoulos, Professor at the National Technical University of Athens.

Christos Douligeris, Associate Professor at the University of Piraeus.

Catherine Karamanou, Attorney Emeritus.

Constantinos Vrettos, former Director, Hellenic Telecommunications Organization (OTE S.A.)

## 2. Staff

The staff of the Authority, according to article 8 of Law 3115/2003 titled "Hellenic Authority of Information and Communication Security and Privacy" (Government Gazette Issue No. A47) replaced by article 19 of Law 3472/2006 titled "Adjustment of Ministry of Justice Jurisdiction issues and other provisions" (Greek Government Gazette Issue No. A135), consists of forty (40) persons of which nineteen (19) are regular personnel, eighteen (18) special scientific personnel, two (2) appellate attorneys under payment order and one (1) legal advisor.

a) The nineteen (19) regular personnel positions are allocated as follows:

- Of university education: Administrative–Financial branch, three (3) positions.
- Of technological education: Administrative–Accounting branch, three (3) positions, Application Technology branch, five (5) positions.
- Of secondary education: seven (7) positions.
- Of primary education: Auxiliary Personnel branch, one (1) position.

b) The eighteen (18) positions of Special Scientific Personnel are distributed as follows:

- Fourteen (14) positions for certified electrical and electronics engineers, computer engineers, telecommunications engineers, informatics engineers, computer scientists or physicists.
- Two (2) positions for postgraduates or graduates of International relations or European studies or of Financial studies or of Business Organisation and Administration.
- Two (2) positions for graduates of Law School, which result in halting the exercise of the attorney's function.

c) The positions for attorneys under payment order are two (2).

d) The legal advisor must be an attorney having practiced his/her profession in the Supreme Court and as minimum requirement he/she must be a holder of a postgraduate degree in a field that is related to the work conducted in ADAE.

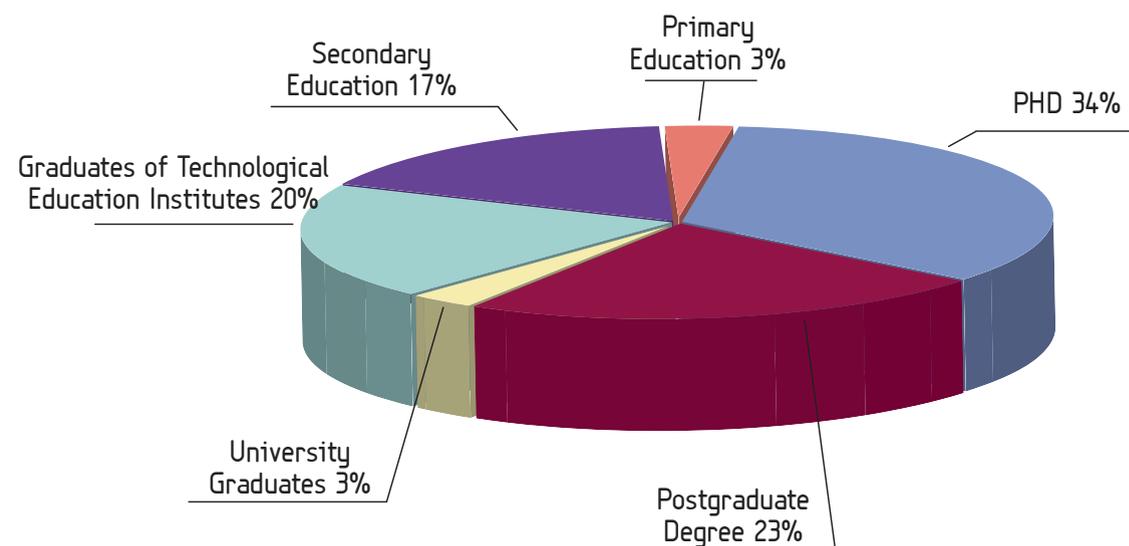
On the 31st of December 2006 the ADAE personnel consisted of 31 employees, compared to 28 at the end of 2005, among which was a posted worker from the Company of Thermal Buses S.A. so as to cover for relevant ADAE needs.

More specifically, the personnel serving under ADAE at the end of 2006 is distributed as follows:

- 16 individuals as regular personnel (two university graduates in the Administrative–Financial branch, five of technological education in the Application Technology branch, three of technological education in the Administrative–Accounting branch, four of secondary education in the Administrative–Accounting, one of secondary education, car driving, one of primary education auxiliary personnel).
- 12 individuals as special scientific personnel (ten electrical engineering graduates or computer engineers and two law graduates).
- 1 legal advisor and
- 1 attorney under payment order.

The educational level of the personnel serving under ADAE at the end of 2006 is portrayed in the following graph:

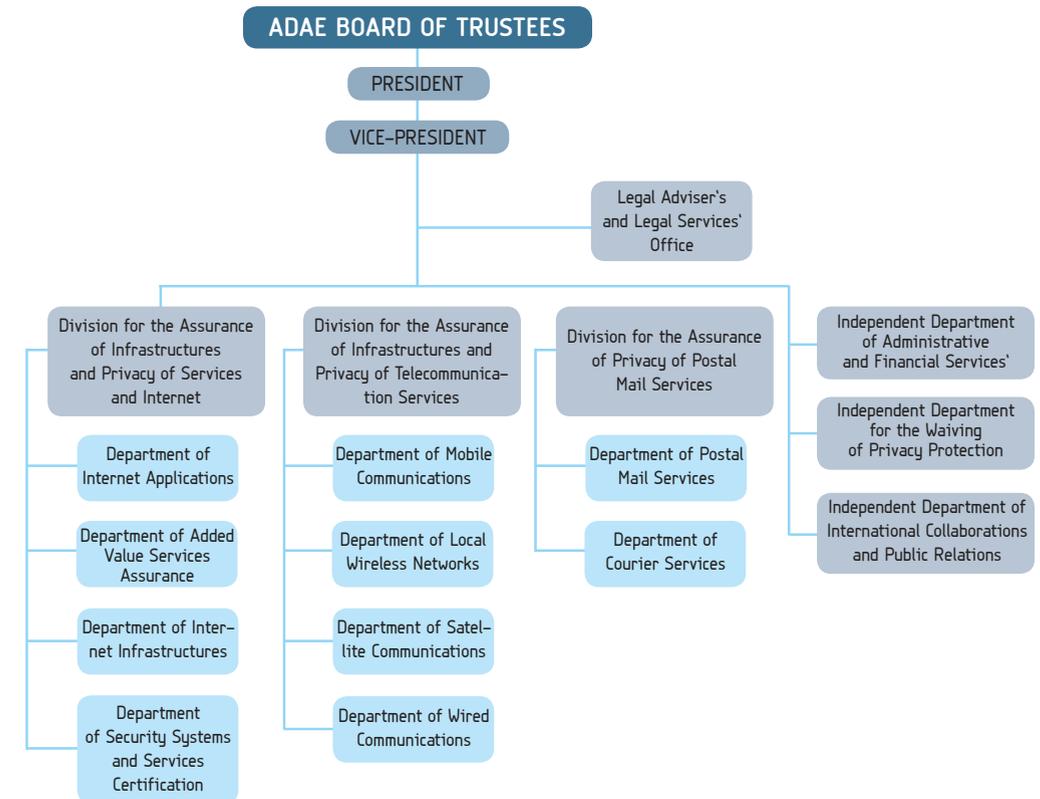
**ADAE PERSONNEL EDUCATIONAL LEVEL**





## C. ORGANISATIONAL CHART

As described in the Presidential Decree No. 40/2005, the Hellenic Authority for the Information and Communication Security and Privacy has the following organizational structure:



## D. ADAE SEAT

The Hellenic Authority for the Information and Communication Security and Privacy is located in Athens, Greece.

The address is:

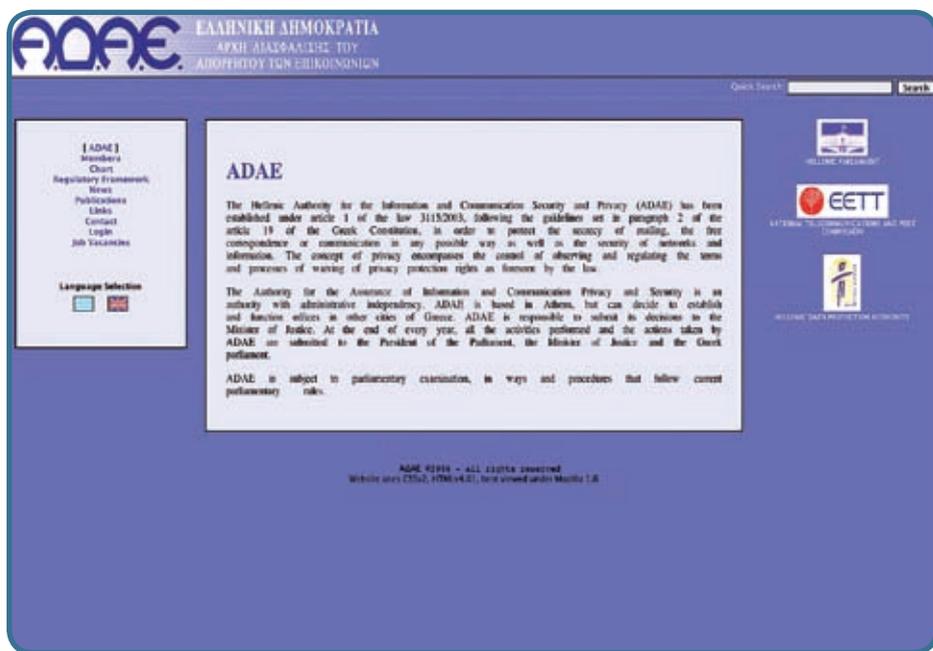
ADAE, 3, Ierou Lochou Str. 15124 Maroussi, Greece

## E. INFORMATION SYSTEM

### 1. Website

The ADAE website ([www.adae.gr](http://www.adae.gr)) has been constructed with the aid of the University of Piraeus and offers rich electronic and information material, which is managed by ADAE personnel. The site is structured as follows:

- Information on ADAE, such as the nature of ADAE, the institutional framework that governs its function and internal structure, its jurisdiction and field of action.
- Regulations, regulation plans and presidential decrees concerning security of privacy and waiving of communication privacy protection, as well as all ADAE-related issues, such as ADAE opinions and decisions following the applications of providers.
- News and notices concerning job vacancies posted by ADAE, instructional and educational days and seminars for ADAE personnel and for the public, as well as the above mentioned activities' presentation material.
- Useful links and communication with those interested in issues falling into ADAE's jurisdiction.



## 2. Networking and IT Infrastructure

The current ADAE networking and information infrastructure emphasises in network and data security. The relevant project was undertaken by the personnel of the Division for the Assurance of Infrastructures and Privacy of Services and Internet Applications, taking into consideration the requirements described in the ADAE Security Policy.

The ADAE network and information infrastructure provides ADAE employees with network accessing services, e-mail protected by malicious software (malware) and spam, possibility for distributing files through a main server, electronic document management, digital certificates and wireless, encrypted access to the network and information infrastructure. In addition it offers wireless access to the internet for visitors, excluding access to the internal network.

The desired security levels are achieved through splitting the network into properly formulated and firewalled zones, in addition to the use of an intruder detection system (IDS).

The ADAE personnel has recorded the infrastructure of the installed network and information systems in manuals and is responsible for managing and monitoring them.

To connect to the internet, two ADSL lines (of 2048 Kbps each) are being used, allowing for load balancing.

## 3. ADAE Security Policy

ADAE possesses and applies a complete Security Policy on its network and information infrastructure, in order to secure the confidentiality and integrity of the stored data and the information exchanged between institutions, organisations and civil services outside ADAE.

The General Security Policy determines individual policies, relevant procedures as well as their purpose and jurisdiction. The specific policies are the following:

- Natural and Environmental Security Policy.
- Protection of Information Policy.
- Management of Security Issues Policy.
- Surveillance and Security Monitoring Policy.
- Internet and E-Mail Security Policy.
- Encryption Policy.
- Access and Acceptable Use Policy.
- Network and System Security Policy.
- Protection from Malicious Software policy.
- Business Continuity Management Policy.