

## ORPEA'S REACTION FOLLOWING THE FINAL REPORT FROM THE IGAS-IGF JOINT INVESTIGATION

Puteaux, 26 March 2022 [20:00 CET]

Orpea takes note of the announcement by Mrs Brigitte Bourguignon, Minister Delegate to the Minister of Solidarity and Health, in charge of Autonomy, of her decision to transmit to the public prosecutor the report of the control mission carried out by the General Inspectorate of Social Affairs (IGAS) and the General Inspectorate for Finance (IGF)<sup>1</sup>. This decision will allow us to explain ourselves in serenity, to defend our rights and of course to collaborate with the judicial system whenever necessary.

We regret that the report of the inspection mission, as well as the 177 pages (excluding supporting documents) of very detailed responses that we provided, were not made public, nor made available to all stakeholders. The only elements that have been disclosed are a preliminary report presented in a damning way for Orpea and which does not take into account our responses.

Indeed, although the final report that was sent to us during the night of 25 to 26 March 2022 does shed light on certain dysfunctions, it allows us to conclude that there is no organised “system” that would lead to widespread abuse and also denies several particularly serious allegations made against us in the book *The Gravediggers*.

**Philippe Charrier, Orpea's Chairman and Chief Executive Officer, said:**

*“We have taken the full measure of the legitimate emotion aroused by these dysfunctions, many of which stem from the shortage of care and support professionals that affects us as it does the entire nursing home sector.*

*We deeply regret them. We would like to renew our sincere apologies to the residents and their families. We are taking all the necessary measures to implement the actions relating to all the elements provided by the IGF-IGAS report. We will also apply without undue delay the recommendations made following all the expected reports.”*

The case being referred to justice, we cannot go into the substance of all the issues on which we are being challenged. At this stage, however, we would like to make the following clarifications:

### **1. The administrative investigation has enabled us to identify areas for improvement and we already commit ourselves to the following corrective actions:**

- We will develop our organisation to give more autonomy and resources to our facility directors, who are the vital force of the Group.
- We must ensure the systematic implementation of our facilities' medical projects and quality processes, which are not always applied consistently in our facilities.
- We need to be more open to our stakeholders. We will achieve this by appointing family mediators, bringing ethics committees closer to the field, improving our operation, and promoting our whistleblowing system.

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<sup>1</sup> IGF: Inspection Générale des Finances — French inspectorate general for finance – and IGAS: Inspection Générale des Affaires Sociales French inspectorate general for social affairs

- We are going to develop our procedure for reporting material adverse events and raise our teams' awareness on the subject in order to shorten the time taken to report them.
- We are going to work on simplifying the quality processes in order to allow better appropriation by the teams on the field.
- We are going to act with more vigour and determination on the problem of chronic staff shortage which affects the sector as a whole and to do this we are going to improve the attractiveness of Orpea as an employer and the retention of our employees, even though our turnover rate is at the same level as that of all nursing homes in France.
- We will improve labor relations and the attention paid to the exercise of trade union rights by negotiating agreements with all the trade union organisations present in the company.

## 2. The inspectorates' report allows to conclude that there is no such thing as an organised "system" that would result in generalised mistreatment and clearly denies some of the most shocking allegations contained in the book *The Gravediggers*

- Concerning an alleged rationing of incontinence products, the investigation "*has not identified any major anomaly in the supply of incontinence products*" and states that "*the recent feedback from the French Regional Health Agencies does not show any organised system for rationing of incontinence products*".
- The report rejects the accusation that there is a lack of care for pressure sores and notes that "*the monitoring of pressure points on the skin and the prevention of pressure sores is not a critical point*". The investigation considers that the percentage of residents with one or more pressure sore dressings (3.42%) "*does not appear excessive*".
- The number of coordinating doctors in Orpea's nursing homes is well above the sector average: they are present in 82% of our facilities versus 67% in the sector as a whole<sup>2</sup>.

## 3. Some complaints in the report call for ORPEA's comments

### A. Concerning quality and care

- Orpea disagrees that the staffing ratio within its facilities is lower than the sector average. Between 2017 and 2021, the staffing ratio calculated by Orpea for care, dependency, and accommodation staff has been continually growing, from 0.621 to 0.704. Furthermore, the staffing ratio alone cannot define the quality of care. As a minimum, it should be corrected for factors that are likely to explain the variation between facilities (degree of dependence and pathology of residents, number of beds, age of the real estate, and functional nature of the residences)<sup>3</sup>.

The nutritional policy implemented by Orpea responds to all protein and energy requirements of residents and complies with national standards set out by *Anses*<sup>4</sup>, and

<sup>2</sup> *La prise en charge médicale des personnes âgées en EHPAD – Cour des Comptes* [France's Court of Audit] February 2022

<sup>3</sup> *LES DOSSIERS DE LA DREES no. 68 • December 2020 – Le taux d'encadrement dans les Ehpads: ses déterminants et ses alternatives*

<sup>4</sup> *Standing for: Agence Nationale de Sécurité Sanitaire Alimentaire, i.e. National Food Safety Agency*

by HAS<sup>5</sup>. The IGAS investigation carried out its nutritional assessment from a tool for orders placed in kg, while it is the protein and energy nutritional contributions that matter<sup>6</sup>. The meal plan elaborated by the Medical department, the Head of Nutrition and Orpea's catering service, over five-week periods, aims at ensuring a balanced diet. It ensures that all nutritional provision is guaranteed and fully compliant with official recommendations for protein, calories, fats, and carbohydrates.

The weekly average energy provision of Orpea's menus is between 2,037 kcal/day and 2,147 kcal/day versus the recommended 1,950 kcal/day to 2,275 kcal/day. The nutrition policy also includes monthly weight monitoring and checks of albumin and BMI when necessary.

- **The Group has integrated an oral-dental protocol within the care plan**, with an assessment by the coordinating doctor during the Standardised Geriatric Assessment performed upon entry and then once a year.

### ***B. Concerning the use of public funds***

**Orpea formally denies the existence of a system aimed at optimising the use of public funds:**

- The surpluses recorded at the facilities over the 2017-2020 period, which are concentrated in 2019 and 2020, are explained by the combination of:
  - The pricing convergence policy, which, by inducing an additional allocation to private facilities, generated budget surpluses that were not forecast by the facilities. Each year, these allocations being only validated around mid-year, the directors don't use them during the first part of the year.
  - And the healthcare crisis, which, having led to reductions in both the number of residents admitted in the nursing homes and the number of assistant nurses available during this period, resulted in actual expenses being lower than planned.
- Faced with this lack of assistant nurses, and in order to continue to provide optimal support for residents, the facilities called upon life auxiliaries to take on the role of assistant nurses, a practice which is common across the sector<sup>7</sup>. We have therefore used the care portion of public funds for the staff costs corresponding to the increased care needs.
- All of these charges have always been declared in a transparent and clearly identifiable manner to the Regional Health Agencies in charge of controlling the facilities concerned.
- **The €20 million surplus generated mechanically during this period resulted in the recording of an expense aimed at neutralising the positive impact in the Group's financial statements.**
- Way below the amount suggested by the authors of the inspectorates' report, €4.6 million could come from non-compliant charges on the public subsidies for care and dependency, equivalent to 0.3% of the allocations received between 2017 and 2020.

The inspectorates consider that the services are imprecisely described in the contracts or inherent to the contractual service. In our opinion, this assessment is questionable.

That being said, in order to avoid any difficulty in the future, ORPEA has decided to exclude the amount of orders for products in the care and dependency sector from the basis for calculating the fees due for services. No more fees will therefore be calculated and collected on the basis of the amount of products financed by public funds.

<sup>5</sup> Standing for: Haute Autorité de Santé, i.e. High Authority for Health

<sup>6</sup> See latest report from the Haut Conseil de la Santé Publique (18 May 2021, updated 24 August 2021)

<sup>7</sup> La prise en charge médicale des personnes âgées en EHPAD – Cour des Comptes February 2022

As per its previous commitment, the company will report on the outcome of the independent external reviews commissioned by the Board of Directors and, in May 2022, on its transformation plan to better serve residents and their families.

[About ORPEA \(www.orpea-corp.com\)](http://www.orpea-corp.com)

Founded in 1989, ORPEA is one of the world leaders in Dependency care (nursing homes, assisted living, post-acute and rehabilitation hospitals, mental health hospitals, home care services)

ORPEA is listed on Euronext Paris (ISIN code: FR0000184798) and is a member of the SBF 120, STOXX 600 Europe, MSCI Small Cap Europe and CAC Mid 60 indices.

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