

Status update on the independent assessment by Grant Thornton and Alvarez & Marsal of the allegations made in the book “Les Fossoyeurs”

[Document translated from French. In case of discrepancies, the original version in French prevails]

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Contents

OVERVIEW	3
INTRODUCTION: CONTEXT, SCOPE OF INVESTIGATION AND APPROACH	4
INVESTIGATIVE APPROACH	5
LIMITATIONS	9
PRELIMINARY SUMMARY OF THE GTAM INVESTIGATION WORKS AS OF 18 APRIL 2022	11
TOPIC 1: THE CONDITIONS OF CARE OF THE RESIDENTS OF THE NURSING HOMES.	11
1.1 ALLEGATION REGARDING LACK OF MATERIAL RESOURCES FOR THE PROPER CARE OF THE RESIDENTS ...	11
1.2 ALLEGATION RELATIVE TO MANAGING HUMAN RESOURCES	16
1.3 ALLEGATION REGARDING THE MONITORING OF REPORTS AND INCIDENTS	18
1.4 ALLEGATION REGARDING THE PAY POLICY	20
TOPIC 2: USE OF PUBLIC FUNDS AWARDED TO ORPÉA TO FULFIL ITS MISSION THROUGH THE FUNDING OF WORKFORCE AND MEDICAL DEVICES	22
2.1 ALLEGATION REGARDING THE DECLARATION OF WORKFORCE TO SUPERVISORY AUTHORITIES	22
2.2 ALLEGATION REGARDING THE USE OF PUBLIC FUNDS	25
2.3 ALLEGATION REGARDING NON-REPAYMENT OF BUDGET SURPLUSES	27
TOPIC 3: ALLEGATION REGARDING THE EXISTENCE OF SITUATIONS OF CONFLICTS OF INTEREST, EVEN CORRUPTION, IN THE BUSINESS RELATIONS EXISTING BETWEEN ORPÉA AND SOME PUBLIC OFFICIALS	32
3.1 ALLEGATION REGARDING THE RELATIONS WITH PUBLIC SERVANTS	32
3.2 ALLEGATION REGARDING THE USE OF INTERMEDIARIES	33
3.3 ALLEGATION OF ATTEMPTED BRIBERY OF VICTOR CASTANET	34
TOPIC 4: ALLEGATION REGARDING VARIOUS BREACHES OF EMPLOYMENT LAW	35
4.1 ALLEGATION REGARDING THE EMPLOYMENT CONTRACTS	35
4.2 ALLEGATION REGARDING THE MISUSE OF CDD (TEMPORARY LABOUR CONTRACTS)	35
4.3 ALLEGATION REGARDING THE WORKING CONDITIONS	36

Overview

This document is an interim status update of the independent investigation performed by the firms Grant Thornton and Alvarez & Marsal who were together commissioned by the Board of Directors of the Orpéa Group to address the allegations made in the book “Les Fossoyeurs” written by Mr Victor Castanet. This document was prepared following a request of the Board of Directors of the Orpéa Group.

This document provides an update on the investigation progress to date, but should be viewed in the context of the work yet to be undertaken. Limitations that should be taken into account whilst reading this document are explicitly specified in the body of present the document.

The independent investigation conducted by the two firms began on 1st February 2022 and is mandated by an ad hoc committee of the Board of Directors of the Orpéa Group. The investigations are being conducted without any involvement by the Management of the Orpéa Group, and without any reporting to them.

Given the scale, significance, and variety of the allegations made, the firms adopted an approach designed to meet certain professional standards. This approach required substantial effort, in terms of both resources and investigative techniques.

The scope of the investigation includes all allegations made in the book in relation to the French Nursing Homes (EPHAD), grouped into four major themes, i) care conditions of the residents, ii) appropriate use of State funds, iii) potential conflicts of interest, and iv) potential breaches of Labour law.

Our investigation focuses on the 2019-2021 period but may extend to prior periods for some allegations specifically identified in the book as dating to previous periods.

The preliminary findings presented in this document, subject to further investigations, identify the existence of rebates, discounts and deductions granted by suppliers even on products under public funding. We also identified erroneous use-of-funds statements to supervisory authorities, non-compliance in fixed term employment contracting, and the use of intermediaries, including a former prefect (“Préfet”).

However, these preliminary findings do not yet allow us to confirm the existence of systemic supply shortages for incontinence products or a systemic rationing of food.

With regard to allegations of insufficient staff cover for the appropriate care of residents, our findings do not yet make it possible to confirm the existence, over the period targeted by our investigations, of an organised plan to understaff facilities in order to optimise the profits of the Orpéa Group.

We note however, that the budgeting process and management set-up present failings of approach and design which, in combination with strong pressure to meet margin targets and limitations over the total payroll of the Nursing Homes, exerts significant constraint leading to regular understaffing.

We are continuing our investigations and aim to provide definitive conclusions on as many of the allegations as possible by the end of June.

Introduction: Context, scope of investigation and approach

Following publication of the book by Victor Castanet “Les Fossoyeurs” (“the **Book**”) in January 2022, which made a number of allegations damaging to the Orpéa Group (the “**Orpéa Group**” or “**Orpéa**” or the “**Group**”), its Board of Directors, through an ad hoc Committee formed for this purpose (the “**Committee**”), mandated the firms Alvarez and Marsal (“**A&M**”) and Grant Thornton (“**GT**”), jointly (“**GTAM**” or “**we**”), to carry out an independent investigation.

The independence of this engagement is guaranteed through oversight of the investigation directly and exclusively by the Committee without any interference by the General Management of Orpéa. The Committee has supported all requests linked to the conduct of our investigations and has facilitated access to the people and data necessary to carry out our works.

Thus, on 1st February 2022, we were appointed to conduct an investigation focused on the period 2019 to current date. The mandate also notes however that for specific allegations relating to earlier periods, our investigations may go back further.

The objective of this independent investigation is to assist in establishing the facts in respect to the allegations relating to the management of Nursing Homes made in the Book. The allegations covered by our investigation were identified in consultation with the Committee and combined into four investigative topics:

- Topic 1: Conditions of care for residents of the Residential Nursing Homes for the Elderly (“**Nursing Homes**”) of the Group;
- Topic 2: Use of public funds awarded to Orpéa to fulfil its missions through the funding of staff positions and payment for medical devices;
- Topic 3: Potential conflict of interest situations, or even corruption, in the existing business relations between Orpéa and some public officials;
- Topic 4: Various shortcomings on the social aspect.

This summary document has been prepared to present preliminary findings of the investigation conducted as of 8 April 2022 (“**to date**” or “**at this stage**”). It was prepared upon the Committee’s express request.

It is agreed that this document was drawn up exclusively for the members of the Committee and the Board of Directors. Any communication of this document, total or partial, to a third party requires formal prior agreement of GTAM.

Investigative approach

Our work programme comprises the following activities and reviews:

- Implementation of evidence preservation measures;
- Participation in meetings at Head Office;
- Visits to the operating sites (Nursing Homes);
- Analysis of the documents provided by Orpéa Group and the Nursing Homes visited;
- Examination of emails and other electronic communications;
- Transactional analysis;
- Analysis of structured data, notably accounts and management information;
- Economic intelligence;
- Implementation of an independent whistleblowing hotline.

Generally, in order to guarantee the independence of our works and the objectivity of our findings, we started from the principle of analysing the raw data recovered directly by our teams from the various information systems of the Group, rather than relying on the analyses already undertaken by Orpéa or presented in the audit reports or assessment missions undertaken by third parties.

Interim measures

At the start of our intervention, we organised the protection of the various data we were likely to need within the scope of our works.

We therefore made a legal copy, in the presence of a bailiff, of 39 computers and 36 smartphones and tablets, with a volume of around 6,540 GB (gigabytes).

Meetings at Head Office

We are conducting interviews with some of the members of the Management, employees of Head Office and management functions across France. To date, we have conducted 55 interviews. Each interview is documented and followed up with requests for additional material and supporting documentation.

These interviews are ongoing and will be conducted until the end of the project. Which interviews are required depends on our work programme, points where additional context is required and/or to confirm our findings.

Site visits

We have included in our work programme unannounced visits to a representative number of Nursing Homes covering all Orpéa regions in France (the "visits"). Our aim is to understand the activity of the Nursing Homes and to see the procedures of the Orpéa Group implemented in the field; to obtain staff testimony; and to conduct a number of reviews within the Nursing Homes, in particular looking at procurement, employment contracts and the management of adverse events. Each site is visited for a minimum of two consecutive days.

To date, we have visited 21 Nursing Homes in which we have conducted interviews with an average of ten individuals (Nursing Home Director, Deputy, Management Assistant, Coordinating Physician, Coordinating Nurse, Head Chef, Head Housekeeper, Nursing Assistants, Care Assistants, Health

Professionals, etc.). Over the visits undertaken this far we have met more than 200 people. These interviews are by default with the individual and therefore conducted without the presence of any line manager.

During the visits we were also able to meet the Regional Directors ("RDs"). Further meetings with RDs are planned.

Given the total number of Nursing Homes (in excess of 220 Nursing Homes) and our objective to cover a representative sample, we determined a sampling methodology according to set criteria (size, category, profitability, geographical zone, risk indicators, etc.). The first 21 sites visited do not yet give us the level of coverage and detail necessary to give definitive findings. Additional sites remain to be visited to enable us to further validate potential findings.

Document analysis

During our work thus far, we issued several document requests to Orpéa. We received the documents we requested and Orpéa is providing continuous support to our requests for documents interviews and other works.

To date, we have thus collected more than 44,000 documents.

These documents take various forms, notably:

- Accounting and financial documents;
- Performance indicators and other reporting documents;
- Internal instructions and procedures;
- Legal documents (contracts, delegations of powers, articles of association, minutes, etc.);
- Reports of audit and internal and external inspections (ARS, IGF / IGAS, Statutory Auditor, Internal Auditor, Quality Controls, etc.);
- Regulatory reports to the supervisory authorities (ERRD [statements of actual income and expenditure], EPRD [statement of projected income and expenditure], etc.);
- Employment contracts;
- Meeting supports and associated minutes.

All documents sent by Orpéa within the framework of the joint review by the IGAS and the IGF have also been sent to us.

These documents are being analysed as required according to the needs of the investigation.

Examination of emails and electronic communications

Initial enquiries led to the collection and preservation of a very large volume of data derived from computers, tablets and mobile phones of some thirty employees and directors of the Group and the IT servers of the Orpéa Group.

To date, we have collected a total volume of 5.7 terabytes of data which correspond to the emails and their attachments of 60 employees, as well as instant messaging data.

This corresponds to a total of over 22 million documents.

Some of this collection is still ongoing.

This data is being analysed using specialist technologies (e-discovery) through which specific keyword searches can be performed. This has already allowed us to target more than 250,000 documents for further detailed review.

The review and analysis of this data is ongoing.

Transactional analyses and analyses of structured data

In relation to transactional analyses and analyses of structured data deriving from the management IT systems of the Orpéa Group. In particular, we collected the general ledger and accounting entry files for the companies of the Group covering the years targeted by our investigation (the period 2019 to 2021), and, for some allegations when required, those of earlier years (covering 2001 to 2018).

We have also collected management information from the human resources information system (HRIS), payroll, management control, management dialogue with the supervisory authorities, procurement, management of accommodation in the Nursing Homes, and also management of treatment (with strict respect for the confidentiality of the personal health data).

Given the very large volume of data recovered, and the need to ensure its integrity, some data was only recovered very recently and has not yet been subject to a full analysis.

Economic intelligence

We have conducted some thirty in-depth procedures relating to both the directors of Orpéa and the suppliers, business partners, and intermediaries. The primary aim of these procedures was to establish the business network of the target and any reputational risks arising from these networks. For each individual, we therefore conducted a series of searches over their mandates and shareholdings using various information sources including: the database of mandates of the Orpéa Group (Dilitrust), the legal sources of shareholding information (trades registers, audited annual report, and a set of private and public databases such as Data Inpi, Orbis, Pappers, Offshore leaks, etc.)

We are also conducting searches in private databases (Dowjones, Nexis diligence, Offshore leaks) for the existence of any sanctions or other compliance related red flags (alerts).

We are also carrying out a reputational risk analysis using open source resources on a series of keywords we have selected in connection with the allegations.

Lastly, we are conducting a search for any litigation or disputes involving the parties in scope through a specialist database.

Independent whistleblowing hotline

In addition to the tasks described above, it was decided in agreement with the Committee, to set up a digital platform in order to enable any employee to report any fact in connection with the allegations made in the Book. This secure platform is provided by a company specialised in the management of internal whistleblowing facilities and is administered independently by our teams. The reports entered via this platform, where they fall within the scope of our works, are systematically taken into account in our investigations.

Other approaches

Within the framework of our works, we have incorporated reports received from third parties wishing to share information, which were sent directly to one of our two firms after we were mandated in this investigation.

We have also contacted Mr Victor Castanet three times to ask him to share with us information he may deem useful to our works, while guaranteeing the confidentiality of his sources. We have not yet received a response.

Resources mobilised

To execute these works, GTAM mobilised a multidisciplinary team composed of a total of 38 people.

This team is composed of:

- Specialists in digital forensics ;
- Specialists in investigations ;
- Experts in economic intelligence ;
- Data analysts ;
- Operational auditors ;
- Accounting and financial auditors ;
- Experts in reviews of economic and operational models ;
- Experts in review and analysis of operational and management processes.

Over the months of February and March 2022 our recorded hours of work on this matter have amounted to more than 8,700.

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Limitations

Nature of the intervention

This work does not constitute an audit conducted in compliance with audit standards, or a limited examination according to the applicable standards of professional practice, and it does not have the objective of auditing the accounts or expressing any audit opinion on the accounts on any date whatsoever.

Although we are experienced forensic experts, we are not lawyers. We are not qualified to provide legal services and we will not be held liable for any legal qualification that may be inferred from information highlighted by our investigation works. In this way, this document must not be interpreted as constituting a legal opinion.

Database

Back-ups between November 2019 and February 2022 of Oracle databases of seven applications (expenses, accounts, care management, schedule management, pay, re-invoicing, HRIS) covering processes falling within the scope of our engagement, have not been kept by the Orpéa Group.

Indeed, the backup policy of the centralised Commvault tool backing up data on an electronic file, in production from 7 June 2019, has not been correctly applied for the Oracle databases. These were saved, but not kept by the Orpéa Group in compliance with the defined rotation strategy: two years for monthly backups, and ten years for annual backups.

There is an Exadata online backup of the Oracle databases, but the duration of storage is limited to a maximum of sixty days. The last backup is dated 24 January 2022.

Consequently, we are not able to check completeness of data between November 2019 and December 2021 within applications using the Oracle databases. We cannot guarantee the absence of deletion of data, deliberate or accidental, from these databases. At the time of our works, it is therefore possible that operations or transactions deleted from the information system had not been brought to our attention.

Analyses of the electronic communications

Our investigation draws on a review and an analysis of electronic communications of the main stakeholders in the allegations as identified in the Book, or later during our various analyses. The current backup system of the Exchange email server covers the period 2019 to 2022, which made it possible to recover email inboxes, sometimes at the cost of a complex process. This collection process is ongoing.

However, for earlier periods, the magnetic tape backup recovery system was not operational at the time of we started our work and has not yet been re-established, preventing us from accessing older versions. Given the abnormally low volumes of some email inboxes, we therefore could not be sure that some data has not been destroyed, either deliberately or accidentally.

Works are in progress to enable us to access the older backups.

Interviews

Our works draw on interviews held at Head Office, France management, regional managements, and in the Nursing Homes. We have not yet interviewed all relevant employees and members of the management within the framework of our investigation. The exercise is still ongoing and the interviews are planned as our work progresses.

Progress of the works

As presented in the paragraph below, the investigation works are still in progress currently, and we cannot presume facts that may be discovered later.

Since the investigative works have not yet been completed for all allegations, it is not possible to conclude definitively on any of them, as the result of one may interfere with the result of the others.

The observations given in this document do not prejudice the conclusions we will present under the terms of any other later document. In this way, we do not assume any liability for any later observations or conclusions that appear to contradict the observations set out in this document, or which would be interpreted as undermining these.

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Preliminary summary of the GTAM investigation works as of 18 April 2022

This section presents a preliminary status of our observations to date by investigation topic.

Topic 1: The conditions of care of the residents of the Nursing Homes.

1.1 Allegation regarding lack of material resources for the proper care of the residents

The relevant allegation as set out in the engagement letter is as follows:

There are alleged to be shortages of supplies including: systematic and repeated shortages of protective equipment, and more generally products required for the day-to-day care of residents (notably a restricting ordering system and restrictions on equipment use); policy on bonuses and sanctioning of employees; decision-making at Head Office; food rationing; delays in the purchase of new equipment (by validation system), purchases of equipment restricted to approved sole suppliers, restriction on prescriptions of drugs for financial reasons.

To date, we have set out to evaluate the following allegations: systematic shortages of incontinence products for residents, food rationing, the refusal of orders by management, and purchases of equipment restricted to sole suppliers approved by Head Office .

1.1.1 Allegation regarding shortages of incontinence products

According to the allegations, there are systematic and repeated shortages of incontinence products, and Orpéa limits the number of incontinence products per day and per resident.

Work performed

In the Book, the figures put forward are presented as deriving from a monthly monitoring table created by the supplier Hartmann.

To verify the ratios put forward in the Book, we collected data relative to the purchases of incontinence products intended for the Nursing Homes of the Group from 2019, which we compared with the average number of residents during the same period for all Nursing Homes.

We based our assessment on the data extracted from the Bible Achats and eProc procurement management systems, and Nursing Home management system (Leo).

This analysis indicates that, over the period, 41.5 million incontinence products were bought for the Nursing Homes by the Orpéa Group for an average total number of 17,500 residents. This is an average of 2.2 incontinence products per day, per resident.

We thus have confirmed the number of incontinence products per day, per resident reported in the Book.

Nevertheless, on the basis of over 40 interviews conducted to date with care staff during our Nursing Home visits, we note that the needs of the residents for incontinence products depends on many

factors, including the degree and nature of incontinence of the residents. As an example, some residents do not require incontinence products, others only at night, others still only temporarily..

Lastly, following principles of good care, care staff give preference to accompanying residents to the toilets as much as possible, rather than the systematic use of incontinence products.

Thus, a ratio of incontinence products per day, per resident is not the only relevant factor in qualifying a sufficient or insufficient availability of incontinence products for the proper care of residents in a given Nursing Home.

On the basis of the interviews held with staff of the 21 Nursing Homes visited to date, and observation of the physical stocks at these sites, we have not identified a proven systematic shortage of incontinence products. Similarly, we have not been informed of any tension regarding the timely availability in sufficient quantity of incontinence products required for the proper care of the residents.

Preliminary findings

At this stage, we have not observed a systematic and repeated shortage of incontinence products or the expression of any tension on the subject in the period 2019-2021. We are continuing our investigations to be able to conclude more definitively.

1.1.2 Allegation regarding the daily cost price of meals and food rationing

There is alleged to be a "Daily Cost Price" ("DCP") for meals of around €4 for the category 1 and 2 Nursing Homes and food rationing.

Work performed

This subject is addressed during our Nursing Home visits, notably through interviews with kitchen managers, and have requested a number of documents to enable assessment of this allegation through quantitative tests.

The Group and all contacts interviewed in the Nursing Homes (Nursing Home Directors and kitchen managers) confirm the existence of a DCP, the amount of which varies according to the category of the Nursing Home. This is part of the budgetary management of the accommodation and only includes the costs of food supplies required to make daily meals.

We note that the practice of having a DCP and managing food cost is commonly observed in hotel and catering businesses. On the basis of analyses of data for six of the Nursing Homes visited, it appears that the calculation of the DCP only includes the meals served to residents and excludes meals served to employees and visitors.

The DCP is calculated by the Adoria food supply management system on the basis of past orders, compared with the standard menu by category (the "Menu"). This menu is communicated by the Group to all Nursing Homes of a given category and covers all meals to be served over a period of five weeks. It is communicated to the kitchen managers, who are then responsible for managing their

supplies accordingly. The Adoria system gives them access to a catalogue of products specific to the category of their Nursing Home.

The composition of the Menu, drawn up by dietitians, aims to ensure the nutritional balance of residents. Individual needs (e.g. mixed or minced foods) are systematically taken into account by the kitchen managers on the recommendation of the Coordinating Physician. In addition, individual tastes and preferences are taken into consideration wherever possible. The kitchen managers questioned during our visits declared without exception that they have some flexibility to substitute foods with other equivalents if required.

During our Nursing Home visits we observed the lunch service and did not find any evidence of rationing or a refusal to increase serving sizes or to serve seconds to residents who requested them.

Through interviews and additional information we have collected, we understand that for the year 2021 kitchen managers had a budgeted DCP of €4.46 excluding tax (actual: €4.47) for the 185 residences in category 1, €6.00 (actual: €5.83) for the 26 residences in category 2, and €7.06 (actual: €7.39) for the 12 residences in category 3. This amounts to an average budgeted DCP of €4.78 for all Nursing Homes, and an actual DCP of €4.79 in 2021.

No kitchen managers met during our visits stated that they could not serve the Menu because of the DCP assigned. We were informed that the DCP is calculated at the end of the month and any discrepancies are recorded, and the DCP does not interfere with order submissions.

Lastly, we identified rebates collected by the food buying department of the Group from some suppliers which are not passed on to the Nursing Homes. After the deduction of rebates the net true DCP in absolute number therefore seems to be less than the €4.79. We are continuing our investigations to quantify the true net DCP.

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Preliminary findings

We confirm the existence of the DCP allocated according to Nursing Home category the Orpéa Group. Such budgetary tools are consistent with standard practice in the accommodation and catering sectors (monitoring and management of the cost of food).

The average actual DCP calculated by Orpéa for 2021 was €4.79.

In the six Nursing Homes for which we have conducted an analysis to date, the DCP did not include meals served to employees or visitors.

The amount of the DCP, whatever its amount, does not imply rationing or insufficient coverage of the nutritional requirements of the residents.

The DCP is calculated by Head Office, and additional tests are ongoing to determine the inclusion of discounts obtained on business volumes.

Regarding food rationing, at this stage, our interviews conducted during Nursing Home visits and our observations on site have not alerted us to food rationing of residents.

We are continuing our investigations to determine or otherwise the existence of instructions from the group, that could lead to food rationing within Nursing Homes.

Our work does not make it possible to evaluate the gustative or nutritional quality of the meals served for a given DCP.

1.1.3 Allegation regarding rejection of procurement requests

According to the allegations, procurement requests for non-food products are often rejected, particularly for care products and/or equipment.

Work performed

At this stage, our analyses are limited only to procurement requests ("DA") submitted on the Group's procurement portal ("eProc") containing incontinence products, a product explicitly cited in the Book, over the period June 2020 (date of launch of the tool) to February 2022.

It is important to note that these orders may contain several product types and different references. It is therefore theoretically possible that a DA is rejected on the basis of one product or reference but that the rejection applies to the whole of the DA.

We used data extracted from eProc containing 23,792 lines, corresponding to 5,680 DAs created between 9 June 2020 and 25 February 2022. Out of these 5,680 DAs, 2,202 were submitted via the "Regional Director" ("RD") stage (39%).

We have found several types of rejected DA in this data:

- DAs with the status "rejected"
- DAs with the status "rejected" at least once during the order submission process, including when the DA was resubmitted and resulted in a later order
- DAs deleted after being rejected

For the period June 2020 to February 2022, we identified 228 rejected DAs, 63 by the RDs, and 128 rejected by the Nursing Home Directors ("DE").

Out of a total of 228 rejected requests, 38 mention budgetary reasons (15 by the RDs and 23 by the DEs).

These 38 requests rejected for budgetary reasons correspond to 0.65% of the total of 5,680 DAs in question.

We note that it is possible that a DA opened in one month is only validated in month m+1. We are currently analysing the timeframe between opening of a DA and its confirmation.

Lastly, it was reported to us during some interviews that verbal "pre-requests" for purchases to the Nursing Home Director, ultimately rejected, might never result in a DA entry in eProc.

During our 21 Nursing Home visits resulting in almost 50 interviews of care staff conducted to date, we systematically questioned the employees on the availability of resources enabling proper accomplishment of their daily tasks. The vast majority of the employees in charge of submitting orders declared that they were not aware of the monthly budget allegedly allocated to them for their orders, and that all orders submitted are in general validated by the Nursing Home Director or occasionally by the Regional Director.

Preliminary findings

At this stage, we have not identified a systematic rejection of procurement requests affecting the supply of non-food products, notably linked to the care of the residents.

We are continuing our investigations to establish whether the Group gives instructions relating to the strict respect of allocated budget, or whether indirect mechanisms of "censure" or postponement of orders may prevail within the Group, such as rejection based on verbal pre-requests or deferral of order validation.

1.1.4 Allegation regarding the exclusive purchase of equipment from approved suppliers

According to the allegation, it is impossible for Nursing Homes to buy non-food equipment from suppliers other than those on the approved list of sole suppliers of Orpéa.

Work performed

We have reviewed the internal procedures and interviewed the Nursing Home Directors during our visits. We note that ordering from suppliers aside from those listed on the eProc system is possible to meet urgent needs or in case of a supply shortage, particularly from pharmacies.

Preliminary findings

The vast majority of orders are centralised and placed with suppliers listed by the group. However, the practice of a large group controlling its suppliers is commonly observed and practised. Centralisation makes it possible to approve suppliers and products that correspond to the quality standards of the group, to negotiate more advantageous prices, and to ensure homogeneity of the services delivered. We are continuing our works.

1.2 Allegation relative to managing human resources

The relevant allegation as set out in the engagement letter is as follows::

It is claimed that there is an inadequate level of human resources in relation to the number of residents: a chronic understaffing is allegedly organised, conditions are set on total amount of payroll (absent staff not replaced, resourcing needs managed by computer according to occupation rate and margin of Nursing Homes ; approval process by regional management), the maximum number of occupants for a Nursing Home is regularly exceeded, and admission of residents unsuitable for Nursing Homes are allegedly favoured.

Work performed

Allegation 1.2 is the subject of the following investigations:

- Analysis of the economic model and process for drawing up budgets of the Nursing Homes;
- Analysis of occupation rates of Nursing Homes, notably in respect of authorisations for the number of residents;
- Analyses of correspondence between Nursing Home Directors, Regional Directors and Head Office, notably with the Operating Management France and Management Control, on the basis email inboxes collected;
- Meetings with Nursing Home Directors interviewed during our Nursing Home visits and with Regional Directors (not commenced yet).

We note that all decisions relative to workforce size at Nursing Homes must respect the total payroll budget as agreed between the Nursing Home Director, the Regional Director and Head Office (notably Management Control and Operation Management France).

This prescriptive budget is very precisely and tightly calculated and is based on a set of performance indicators (Occupation Rate ("**OR**"), Net Operating Profit ("**NOP**"), Payroll) which put pressure on the level of staffing at the sites. In addition, the calculation of the budget for year N+1 is principally based on a repeat of the budget for year N.

We note furthermore that the budgeting process implemented by Orpéa leads to a lack of distinction between payroll for the accommodation staff and the payroll for care and dependency staff. In addition, the budgeting process insufficiently takes into account expected evolutions of the workforce (absences, staff rotation, etc.) and the resources allocated by the supervisory authorities (notably

following the 2017 reform). These factors limit the ability of the Nursing Homes to manage their workforce and their mechanism leads to under-consumption of the available resources.

In addition, the optimisation of staff payroll, without distinction between accommodation and care and dependency staff, constitutes one of the performance indicators of Nursing Home Directors and Regional Directors in determining their variable pay (cf. Allegation 1.4).

However, we observe different situations between one Nursing Home and the next, which seem to be dependent both on external factors (job pool, health crisis, competition, etc.) and internal factors (management style of Nursing Home Directors and/or Regional Directors, pay policy, organisation in place, etc.).

We thus observe that the average levels of pay by position may be significantly different from one site to the next: up to 14% difference in the average pay of nursing assistants / medical/psychological assistants / activities coordinators and up to 24% for registered nurses. These variations illustrate the capacity of the Nursing Homes to adjust the remuneration offered.

In relation to recruitment, we analysed the number of new staff requests approved and rejected using data extracted from the Human Resources Information System. This extract covers 102 Nursing Homes over the period 2019 to 2021. We found that out of 383,227 requests for fixed term contract ("CDD") hires, 90 were refused, which is 0.02%, 22 for nursing assistant or nursing positions. Similarly, out of 4,698 requests for hires on permanent contracts ("CDI"), 37 seem to have been refused, which is 0.79%, 11 for nursing assistant or nursing posts. Our analysis of these points is still in progress.

For occupation rates, for 2021 the information collected from Head Office indicated three Nursing Homes had an average OR over 100%. The visit to one of these three Nursing Homes enabled us to see that the high occupation rate was explained by the inclusion of residents from an adjoining services residence, with these residents being added to the total number of beds of the Nursing Home.

The same analysis undertaken on the monthly occupation rate for all Nursing Homes since 2019 reveals 20 Nursing Homes experienced an OR over 100% during at least one month. Out of the 20 Nursing Homes, three demonstrated a systematic recurrence of over-occupation, including the facility visited by our team in relation to 2021. We are continuing our analyses and investigations to clarify the circumstances of over-occupation.

As to the role of Regional Directors, we observe that this role is central to the process of budgeting and to allocating available workforce within Nursing Homes. RDs are involved in creating the initial budget and in recruiting staff. We have not yet observed any general or systematic instruction to not recruit or renew posts in case of absence.

We do however observe that for earlier periods, specifically the year 2010, there are clear indications that general instructions could, at least occasionally, have been drawn up and distributed to the whole of the network through the Regional Directors, in order to:

- Favour the acceptance of "persons presenting complex medical records";
- Limit recruitment or the use of temporary staff for a period according to the level of budget overrun of the sites.

Preliminary findings:

Beyond the very restrictive budgetary process, we have not at this stage identified any indications that the Orpéa Group has put in place a “system” to organise and systematise understaffing within the Nursing Homes to optimise its economic and financial results over the period 2019 to 2021.

We have identified however, that these practices might have been in place during an earlier period.

We are continuing our investigations through site visits, data in our possession, and the analysis of email exchanges between Head Office and Nursing Homes.

1.3 Allegation regarding the monitoring of reports and incidents

Reminder of the contents of the allegation as set out in the engagement letter:

It is claimed that Orpéa inefficiently deals with incident reports and the monitoring of elder mistreatment cases reported by the residents’ families and by professionals (including around the satisfaction survey system).

Work performed

Regarding family complaints, our works to date draw on the meetings at Head Office and Nursing Homes visited.

Regarding reports by professionals, our review falls within the regulatory framework defined by the Haute Autorité de Santé [Health Authority] (“HAS”) for Serious Adverse Events (“SAE”) and to a related Orpéa procedure. We are in the process of reviewing compliance with the process for registration and communication of SAEs through interviews in the Nursing Homes and a documentation review.

Complaints of families: on the basis of interviews at Head Office and at Nursing Homes, employees of Nursing Homes visited admitted to not formalising in writing verbal complaints received from families, and favouring a direct dialogue between the Nursing Home Director and the families. These verbal complaints and their processing are not systematically documented. This leaves few auditable traces and consequently makes them difficult to quantify.

Upon signing his employment contract, a Nursing Home Director must certify having received and read two protocols relative to the verbal complaints and written complaints procedures. These two protocols stipulate that the Nursing Home Director must respond in writing to family complaints, including verbal complaints. Based on our site observations our meetings with Nursing Home Directors, we note that this protocol is not systematically followed.

Reports by professionals: according to the Agence Régionale de Santé [Regional Health Agency] (“ARS”), an Adverse Event (“AE”) may concern the health, safety or operation of the Nursing Home. These AEs may be declared by the health professional to the ARS by telephone then by email. When the AE is deemed serious, the reporting person completes an “Adverse Event Form” (“AEF”) relating the facts, the causes and the corrective action plan. The reporting person decides whether or not to send this AEF to the Competent Supervisory Authorities (“CSA”).

Over the year 2020, the HAS lists a total of 1,081 Serious Adverse Care Events ("**SACE**") nationally for all types of structures potentially concerned by the procedure (health institutions, medico-social services and institutions, community medicine, patients' homes). Among these 1,081 SACEs, 100 were reported by medico-social services and institutions for the elderly. In 2020, Orpéa declared 2 SACEs (source: Orpéa internal SACE monitoring table) for a proportion of beds of 3.3%.

The Orpéa procedure governs all AEs and documents a protocol to be followed for SAEs. We understand that this procedure is applicable for SAEs and SACEs within the meaning established by the CSA. To date, we have not been able to find out the way in which Orpéa guides the Nursing Home Directors and/or Regional Directors on the conversion of an AEF into an SAE/SACE.

Care-related complaints and adverse events ("CAE"): Depending on their seriousness, CCAEs may give rise to the writing of an AEF, when then may be reported to the ARS as SACE. We are conducting an analysis of the number of SACEs submitted to the authorities since 2018 to compare them with the statistics of the HAS. There are about ten main risks defining a SACE. The majority of these criteria are linked to the medical situation of the residents and are recorded by Orpéa in the residents' medical records in the Netsoins medical resident monitoring software ("**Netsoins**"). It should be noted that CCAEs represent around 80% of the total events documented as adverse by Orpéa, and over 90% of these CCAEs are the subject of an AEF. According to the adverse event in Nursing Homes monitoring table prepared by Orpéa, 3% of these AEFs were the subject of a SACE declaration in 2021.

Upon signing his employment contract, a Nursing Home Director must certify having received and read a protocol relative to "*the conduct to follow upon occurrence of an adverse event*". This protocol details the procedure to follow to process SAEs.

Over the past three years, between 1% and 3% of these AEFs gave rise to the declaration of a SACE to the ARS. At this stage of the investigation and given the nature of the underlying information covered by medical secrecy, we have not analysed and compared the SACEs declared to the ARS with the documentation of the care staff in Netsoins.

Other complaints and adverse events: Orpéa has a detailed procedure for feedback of these SAEs with a non-exhaustive list of events that may be the subject of a report of SAE. This particularly includes as SAE in the Orpéa procedure: "*Prolonged job vacancy, notably supervision, difficulty in recruitment, unforeseen absence of several members of staff, staff turnover, strike, etc., making it difficult to effectively look after the residents or keep them safe*".

The visits to date establish that this procedure is not respected regarding the prolonged job vacancy. It would seem that the care staff had no knowledge that a job vacancy is considered to be an SAE, and would explain the low number of AEFs on job vacancies. According to our analyses, over the year 2021 there seems to be a difference of around 1,400 full time equivalents ("**FTE**") between the budget and the annual actual on the key posts of nursing assistant, general care nurse, medical and paramedical posts, and psychologists.

Preliminary findings

On the basis of 21 visits, we can confirm at this stage that prolonged staff absences are not the subject of declaration of SAE in the form of AEF to the ARS. We can also confirm that the declaration of some SACEs is not undertaken in compliance with the procedures in force.

We are continuing our investigations.

1.4 Allegation regarding the pay policy

Reminder of the contents of the allegation as set out in the engagement letter:

- A pay and staff incentive policy potentially going against good care of the residents.

Work performed

We have analysed the bonus systems of the Regional Directors and the Nursing Home Directors, and the amounts paid to Nursing Home Directors over the past three years.

During our visits, we ask Nursing Home Directors to describe the pay policy in place to attract competent staff and about the leverage represented by pay to convert CDDs into Permanent Contracts ("CDI") and thus stabilise the healthcare teams.

Variable pay of Regional Directors is composed of a half-yearly incentive and an annual bonus. This incentive system is based exclusively on financial criteria: Revenues ("CA"), payroll, NOP, and alignment with the budget. The bonus is awarded according to the evolution of the NOP and achievement of the NOP recorded in the budget.

Variable pay of Nursing Home Directors is mainly based on financial targets in meeting budget of the Nursing Home on three criteria: CA, payroll and NOP. This system is composed of two half-yearly incentives and one bonus partly conditioned on the achievement of qualitative targets.

For the half-yearly incentives, we observe that they increase when two of the three financial targets are achieved, with a greater weighting of the NOP in relation to the two other criteria to be achieved in determining the amount paid. A qualitative criterion is added to the determination of these incentives: obtaining a score of less than 90% for two half-years consecutive to the half-yearly Quality assessment, conducted by the Regional Director over 100 criteria, entails a reduction of 50% in the incentive received for the financial criteria, and a total absence of incentive if no or only one financial target is met.

The annual bonus of the Nursing Home Director is conditional on obtaining a score of over 90% for two half-years consecutive to the half-yearly Quality assessment, conducted by the Regional Director for the two halves of the calendar year. The only financial criterion for obtaining a bonus is based on a target of evolution of NOP of the budget. In spite of our requests in several Nursing Homes, none of the Nursing Home Directors could provide us with supporting documents regarding the breakdown of their variable pay. We are therefore not able to confirm the impact of the qualitative score in the award of the incentives. We would like to mention that although an addendum to the contract of the Nursing Home Directors is specifically devoted to their variable pay and its terms of calculation, almost all Nursing Home Directors met during the Nursing Home visits had evasive responses regarding the terms of its determination and the criteria determining it. Furthermore, we have identified the existence of a systematic procedure of a formalised annual appraisal of Nursing Home Directors by Regional Directors. At this stage, we cannot attest to the generalisation of this appraisal and its impact on the bonus of Nursing Home Directors.

Concerning other employees of Nursing Homes, we understand at this stage that no formal mechanism set out by the Group provides for the payment of bonuses. Nevertheless, interviews in the Nursing Homes suggest that exceptional bonuses may be paid on the initiative of Nursing Home Directors.

On the basis of interviews and observations to date, it would appear that owing to the rarely complete care teams in the Nursing Homes, the EDs have to use temporary staff (CDD) to make up for the deficit of human resources in their Nursing Homes. According to the file "Synthèse Orpéa Cumul 2021" provided by Orpéa, 41% of FTEs were CDDs in 2021. These temporary staffs are sometimes paid above the scale defined for CDIs, in addition to benefiting from a job insecurity premium and payment of their paid leave. This financial incentive and the personal reasons linked to the flexibility of the jobs over time make it difficult to convert care staff opting for a short-term contract (CDD) to CDI.

Preliminary findings

At this stage of our analyses, we note (i) that there are no qualitative criteria in the determination of the variable pay of Regional Directors, (ii) and that for Nursing Home Directors, financial criteria are predominant in determining variable pay.

We moreover find that for care staff, (i) the principle of not authorising paid overtime, (ii) the absence of institutionalised bonus, and (iii) the possible discrepancies in pay unfavourable to staff on CDIs, do not contribute to the attractiveness of permanent (CDI) posts. And yet, on the basis of the interviews conducted to date, it emerges that the stability of the healthcare teams would be a key factor for compassionate care and improvement in care of residents.

Topic 2: Use of public funds awarded to Orpéa to fulfil its mission through the funding of workforce and medical devices

2.1 Allegation regarding the declaration of workforce to supervisory authorities

Reminder of the contents of the allegation as set out in the engagement letter:

- Misreporting of the workforce to the ARS,
- Establishment of mechanism(s) of concealment and falsification of documents in case of audit

2.1.1 Allegation regarding the overassessment of the workforce

Work performed:

Our investigation seeks to understand and document the process put in place by the Orpéa Group to complete its regulatory reporting to the supervisory authorities, each year, through Statements of Revenues and Expenses (“**ERRD**”).

This process is implemented by the Department of Establishment and Medico-Social Services Relations (“**DRESMS**”) by means of a specific information system, called 4D, developed internally by the Orpéa Group.

At this stage we have reviewed the production of the statements at two Nursing Homes visited (“initial sample”) by gathering information in the field and comparing it with the documents produced by the DRESMS.

We have initiated mapping of the information systems, incoming and outgoing data, and the key processing undertaken manually and/or automatically by the systems.

We have asked to review the comparison by Nursing Home, individually and as a whole, between the ERRDs submitted to the supervisory authorities and the accounts for financial years 2019 and 2020.

During our site visits, we conduct a test to check the accuracy of the information submitted to the supervisory authorities in relation to the workforce allocated to the healthcare post, and whether the qualifications of these staff members meet legal requirements.

We note that the relationship between the management of Nursing Homes and the supervisory authorities (ARS and departmental councils) is centralised in the DRESMS, which produces and sends to these supervisory authorities the Preliminary Statements of Revenues and Expenses (“**EPRD**”), the ERRDs and the management reports specific to each Nursing Home.

The final reports for a given Nursing Home are not reviewed by its Nursing Home Director before submission for validation of the information relative to their Nursing Home (notably identification of the staff and their positions).

The process for production of these reporting statements is as follows: the 4D information system is fed by accounting data from the Orpéa accounting system (“**Navision**”), data from the training

department, data from the system for monitoring and billing of accommodation services (“**LEO**”), and data from the payroll management system (“**Pandore**”). This data feed is not automated and involves manual operations and entries by operators involved in the process, notably those of the DRESMS and Management Control.

Then, these raw data are reprocessed and “switched” by the study managers of the Management Dialogue team of the DRESMS at the end of their consistency checks. These “switches” consist of transferring staff from one category to another, using functionalities provided for that purpose within the 4D information system. For the workforce, this reprocessing repositions some staff to healthcare activities from accommodation activities.

This reprocessing aims to reflect the operational reality of Nursing Homes, as supposed to be communicated by the EDs through activity briefs, completed if necessary by informal verbal exchanges between them and the DRESMS.

Our investigations aimed to check the consistency of information declared about the post presenting the “healthcare” staff in the ERRDs, and the true allocations of the staff on site, the job titles on the employment contracts, and the eligibility criteria laid down by the legislation in force.

Comparing the declarations made in the ERRDs and the eligibility criteria laid down by the legislation in force, we find that the Orpéa Group charges to public funding the post “Nursing Assistant”, Medical/Psychological Assistants and Activities Coordinators” staff who do not have the required qualifications.

As a reminder, the qualifications required for the Nursing Assistants are as follows: either “qualified nursing assistant” staff, or “care assistant under the validation of professional experience scheme” staff, or student nurses having completed their first year of training.

The Orpéa Group declares “care assistant staff acting as nursing assistant staff” who would effectively be providing care without holding the required qualifications. This declaration is made transparently to the authorities, by using the title “Care Assistant acting as NA”.

Over the period 2019-2020, the 2021 figures not yet being available, the amount declared to the ARS by Orpéa for these Care Assistants acting as NA amounts to 19,154,212 euros.

Concerning these “Care Assistants acting as NA”, we find discrepancies between the declarations made in the ERRDs, the reality of the practice on site, and the job titles on the employment contracts. These discrepancies may be of different types as follows:

- Some staff are wrongly declared in the “healthcare” post, which increases the amount of the declaration;
- Some staff are wrongly not declared in the “healthcare” post, which reduces the amount of the declaration.

These discrepancies are mainly due to the “switches” undertaken by the DRESMS of some staff in healthcare category of the ERRD, without having all operational information from the sites; therefore undertaking these switches randomly in the database, using theoretical knowledge of the functioning of the sites and the provisional statement of income and expenses (EPRD).

Our investigations now aim to establish the payroll effectively devoted by Orpéa to the provision of care by these staff.

The review of the electronic correspondence should make it possible to establish if these practices are deliberate in nature.

Preliminary findings:

We note that the production of reporting statements to the supervisory authorities requires numerous manual interventions, without a final review against accounting or against the operational reality of Nursing Homes.

We find that for some points the information reported is not compliant with the regulatory criteria of coverage by public funding.

We find that there are discrepancies between the information sent and the operational reality of Nursing Homes, without currently being able to indicate precisely the exact nature or the amount of this; the maximum potential amount being the €19.1m declared.

We are continuing our analysis of the data in our possession to assess accuracy and determine the payroll amounts effectively devoted to the provision of care and any discrepancies in the declarations to supervisory authorities.

We are continuing our tests during Nursing Home visits to assess the discrepancies identified.

We are continuing to analyse the various charges booked as staff costs under public funding.

2.1.2 Allegation regarding a potential mechanism of concealment and falsification of documents in case of audit

Work performed

During our site visits, we check a sample of staff records, in particular checking for the existence of a duly signed employment contract, supporting documents in relation to experience or qualifications, and existence of a Pre-Hiring Statement ("DPAE").

A check of the consistency between pay, operational schedules and time declared in the ERRDs is in progress.

A review of the electronic correspondence between Nursing Home Directors, Regional Directors and the teams of the DRESMS and Cost Controlling department is also in progress to assess the existence of the instructions alleged in the Book.

Preliminary findings:

The work carried out during our site visits so far has not led us to find the existence of falsified employment contracts or contracts not corresponding to the staff actually employed in the Nursing Home.

We are continuing our tests during Nursing Home visits to assess the authenticity of the documents produced.

We are also continuing our works to review the electronic correspondence.

2.2 Allegation regarding the use of public funds

Reminder of the contents of the allegation as set out in the engagement letter:

There is a claim of over-invoicing by some suppliers of goods funded by the State financing awards and benefitting from year-end discounts sometimes but not systematically supported by services rendered by Orpéa to those suppliers

To date, we have engaged a review of the following allegations: the "Year-end Discounts" on goods financed by public funds generating an income for Orpéa, and the overbilling by the supplier Bastide le Confort Médical ("**Bastide**").

2.2.1 Allegation regarding the existence of Year-End Discounts not disclosed to the authorities on goods financed by State funds

Work performed

On the basis of a review of documents provided by Orpéa, we have identified 92 suppliers offering year-end discounts mechanisms and/or remuneration by suppliers of services provided by Orpéa. Among these companies, 24 supply goods and services eligible for State funding under the "List of Reimbursable Goods and Services" ("**LPP**") dated 11 February 2022. These include the suppliers Bastide and Laboratoires Hartmann ("**Hartmann**").

We have targeted these two suppliers, as they are explicitly mentioned in the Book. To assess the payments received by Orpéa, we reviewed the corresponding contracts and the invoices issued by Orpéa to Bastide and Hartmann and compared these figures with the data available in the Orpéa's accounting system ("**Navision**").

We also requested and reviewed the existence of proof confirming the delivery of services by Orpéa when the contract mentions that Orpéa shall provide such services to its suppliers.

Between 2019 and 2021, Orpéa received €1.7m exc. VAT from Bastide and €8.2m exc. VAT from Hartmann. These amounts are supported by invoices issued by Orpéa to its suppliers, with the titles: "RFA" (year-end rebates), "commissions", "commission – sales", and/or "commissions – maintenance service". The billed amounts are calculated on the basis of a percentage applied to a business volume generated by Orpéa for the supplier over a previous period.

It Some of the supplies from Bastide consist in products that are not funded by the State financing through healthcare award, thus do not fall within the scope of the allegations. We will obviously strive to make a clear distinction between the supplies that are funded by the State-award and those that are not when performing our checks

In our work we have distinguished the payments received, which are actually bare discounts generated through Orpéa purchases from the supplier from the payments received by Orpéa on the basis of services supposedly delivered to the supplier within the framework of service provision agreements. In both cases the price is calculated as a percentage of business volume on a previous period. These year-end discounts and services are invoiced the same way by Orpéa. Some of the contracts in place with Bastide and Hartmann mention such services delivered by Orpéa and billed to the suppliers.

We requested supporting documentation justifying the services delivered to Bastide and Hartmann since 2019 within the framework of these contracts. The documents provided do not enable us to confirm the actual delivery of the services nor to establish whether the billed amounts by Orpéa are justified on the basis of the services actually delivered.

We observe that all payments received, whether linked to services delivered or not, are posted by Orpéa via a Rebates / Discounts / Deductions (rabais, remises, ristournes) cost account of the P&L reducing the expenses recorded in the income statement rather than increasing the revenue.

However, on the basis of our analysis to date, we have not identified any rebates, discounts or deductions declared by Orpéa in the dedicated ERRDs³⁰ section for the sample of Nursing Homes analysed.

Furthermore, Orpéa billed Hartmann ~ €95,000 plus VAT per year in 2020 and 2021, and ~ €80,000 to another supplier in 2020, for a training referred to as Cadrelan "Cadrelan") of some headquarter employees of Orpéa. This corresponds to 1% of the annual business volume of these two service providers with Orpéa.

However, it has been confirmed by Orpéa that no employee of the company has been enrolled in this training since 2019. At the time of our request for clarification, Orpéa informed us that the billing and payments received for the Cadrelan training since 2020 were not due under the contracts with the suppliers.

Preliminary findings

Orpéa benefits from financial income from suppliers providing goods and services financed by State funds award. It is established that this financial income results from invoices issued by Orpéa to its suppliers, which are included in Orpéa's accounts as rebates that effectively reduce the expenses recorded in the income statement. This mechanism also applies when services are mentioned in the contracts between Orpéa and the suppliers.

We have not identified any disclosure of rebates, discounts or deductions in the section provided for this purpose in the ERRDs produced by Orpéa.

Our investigations are still ongoing on these allegations.

2.2.2 Allegation regarding overcharging

Reminder of the contents of the allegation as set out in the engagement letter:

- According to the allegations made, there is overcharging and/or overvaluation of the unit price paid by Orpéa before application of year-end discounts, to finance payment of retrocessions.

It is alleged that Orpéa would have requested suppliers to overcharge some items to finance seminars abroad for Orpéa staff.

Work performed

Financing of internal Orpéa seminars:

Between 2019 and 2021, Orpéa held five internal seminars for its France cluster at a cost of around €3.5m excl. VAT. The seminars were organised with the support of an external service provider. According to emails reviewed to date and invoices of the external service provider, it seems that Bastide partially financed part of the cost of the five internal Orpéa France seminars amounting €1.3m excl. VAT.

We understand that due to the pandemic, no internal seminar was held in 2020. We are awaiting additional supporting documents, such as contracts related to the financing by Bastide.

Allegation of overcharging:

The assessment of the allegation of overcharging is still ongoing.

Preliminary findings

We have gathered information which seems to confirm that Bastide contributed to funding internal Orpéa seminars over the period 2019-2021, and we are continuing our review on this matter.

We are not yet able to conclude on the allegation of overcharging. We are continuing our review in relation to this allegation.

2.3 Allegation regarding non-repayment of budget surpluses

Reminder of the contents of the allegation as set out in the engagement letter:

- Non-repayment of budget surpluses by means of irregularities in accounting or in declarations, setup of a system of fake invoices, allocation to of spend to the wrong Nursing Homes.

It is claimed that the State Funded healthcare awards allocated to Orpéa's Nursing Homes to finance the health-related expenses ("**Healthcare Awards**") and dependency needs of residents ("**Dependency Awards**") have not been fully utilised. It is claimed that part of these surpluses was intentionally not returned to the supervisory authorities. It is claimed that there are allocations of excess funding to other Nursing Homes, and the use of fake invoices to cover this up.

2.3.1 Reports to the ARS

The actual Dependency and Healthcare operating accounts submitted annually to the ARS via the ERRD for each Nursing Home might be intentionally falsified by declaring overestimated costs covered by the State funded awards.

Work performed

We have documented the process of the production of management information sent to the ARS by the DRESMS, notably the ERRD, as described in the allegation 2.1 section above.

At this stage, we have reviewed the process of producing the statements for two Nursing Homes visited (the "initial sample") by gathering field information and comparing it with the elements produced and reported by the DRESMS.

We have initiated the mapping of the information systems used, their data inflows and outflows, and the key processing undertaken manually and/or automatically within the systems.

We have asked to review the comparison, by individual Nursing Home and as a whole, between the ERRDs submitted to the supervisory authorities and the accounts for the years 2019 and 2020.

As reported in our meeting with the DRESMS, the final ERRDs are not matched with the accounts.

We have seen a demonstration of the production by the DRESMS of the "income and expenses" statement of the ERRD for an initial 2019 sample, for which we will now be able to test the consistency with the accounts.

Based on our initial sample, we can reconcile calculations of the occupation rates in the ERRD for 2020 with the source data from LEO (hospitality software).

Preliminary findings

We find that the production of the management statements to the supervisory authorities involves manual actions, without any audit trail, traceability or reconciliation with the accounts. No request for verification and confirmation is submitted to the EDs for their respective Nursing Homes.

We are continuing to review justifications for manual adjustments and the integrity of the data.

2.3.2 Allegation regarding the invoices of service providers

Reminder of the contents of the allegation as set out in the engagement letter:

It is claimed that purchase invoices financed by State-funded Healthcare awards, particularly at the end of the year, are fake, drafted by complicit suppliers without real delivery. Victor Castanet writes that *"one of the main suppliers of medical supplies in France offers its clients to set up a system of fake invoicing. With the aim, again, of drawing as much as possible on the public purse"*.

Work performed

So far we have reviewed the orders and purchases/rentals from 2019 to 2021 for one significant supplier. Next and as a second step, we will undertake the necessary analyses for the other allegations made in point 2.3.2, notably in relation to temporary staff agencies.

The initial analysis of the accounting data for the selected supplier does not indicate an increase in the amount and/or number of orders/purchases during the final months of the year. However, additional accounting data has been requested from Orpéa and we are continuing our analysis of electronic correspondence.

Preliminary findings

Analyses are still ongoing to corroborate/refute the allegations mentioned above. It is therefore not possible to state findings at this stage in relation to this allegation.

2.3.3 Allegation regarding surpluses on state-financing

Reminder of the contents of the allegation as set out in the engagement letter:

According to the allegations, any surpluses on Dependency awards and Healthcare awards ("dotations" in French) are neither returned to the State funding bodies nor spent according to their required purpose.

Work performed

At this stage, we have concentrated on recurrent awards, excluding non-recurring financing ("CNR"). We have reviewed the regulations on managing surpluses of State financing in Nursing Homes, particularly those introduced by the 2017 reform of the Code of Social Action and Families.

We verified with the DRESMS whether, over the whole of Orpéa's portfolio of Nursing Homes, surpluses have been paid back over the 2019-2021 period, and requested a summary of the surpluses and deficits on awards for all Orpéa's French Nursing Homes.

During meetings with the DRESMS and Control department (Head-Office function), and with the Nursing Homes Directors during our visits, we sought to document the allocation of responsibilities for monitoring, using and accounting the awards to identify cause for underusing the awards.

Since the 2017 reform, legislation has not stipulated a requirement to return surpluses. Surpluses declared for each Nursing Home are assumed to be used either by the same Nursing Home, or in another Nursing Home of the same district (*département*), for predefined purposes such as the absorption of past deficits, healthcare training, quality of life at work projects, and as a carry forward for future deficits.

Before 2017, the return of surpluses was set out by law, but in fact any surplus declared by the Nursing Homes was generally kept by the manager, who proposed to use them to finance healthcare improvement initiatives, with the agreement of the ARS.

We have obtained from the DRESMS a summary of surpluses/deficits in relation to awards from 2017 to 2012, as reported to the ARS, by district (*département*) and by Nursing Home.

It shows, on a net consolidated basis, an important increase in surpluses from the year 2019: +€0.3m in 2017, -€1.2m in 2018, +€8.4m in 2019, +€12m in 2020.

On the basis of our interviews at Head Office and from our visits, we understand that this increase in surpluses results from several factors, some external, others internal to Orpéa:

- The awards increased more quickly from 2019 onwards owing to a desire of the authorities to accelerate pricing convergency.
- With the recent health crisis, occupation rates fell and remain low today, reducing requirements for care staff and related expenses. The authorities have maintained the full funding of Nursing Homes in 2020 and 2021, despite the fall in the number of residents.
- Nevertheless, the health crisis aggravated difficulties in recruiting healthcare professionals, notably nursing assistants and care assistants with healthcare experience, which leaves vacant posts open for several months and contributes to the underuse of the award.

The evolution of the awards by Nursing Home is foreseeable based on the initial contractual commitment and the actual spend of prior years. However, the ARS only notify providers in June their exact pricing decision for the current year, and adjust their payments at that time. On that basis, the Healthcare budget of the Orpéa Nursing Homes is amended by Head Office in August. According to the DRESMS and group Management Control, expenses pertaining to the increase in the award, notably hiring and pay rises, are incurred by the Nursing Homes after these confirmations. In the context of increasing awards in the period to 2021, the non-alignment between awards made on an annual basis and late notification and payment leads to underuse, reinforced by a conservative approach in opening certain healthcare posts. We understand from meetings with the DRESMS team that the planning of these expenses falls to the RDs rather than the Nursing Home Directors.

Financial management processes that are centred on the NOP, which aggregates the accommodation, dependency and healthcare operating accounts, and the system of target-related bonuses accompanying it, may lead the ED and the RD to audit their payroll and their total expenses independent from the sources of funding.

During the year, the EDs concentrate their management on the NOP and the total payroll (healthcare, dependency and accommodation) and focus less on monitoring the surplus/deficit of the Dependency and Healthcare awards.

To date, we have no evidence of a plan coordinated by the France General Management to reduce the scale of the surpluses in a context where the current low occupation rates are expected to rise.

In relation to the recurrent underuse of the awards at a consolidated level (the dynamic differs according to the Nursing Homes and *départements*), there is a question regarding the surpluses accumulated since 2019.

On the basis of the information gathered and observed to date, the Nursing Home Directors claim to have no knowledge of these unused surpluses and have a very partial knowledge of the actions required to spend them.

Past surpluses not yet used are not incorporated into the "Nursing Home" budgets for the next year.

We understand from various contacts at Head Office and from the Nursing Home Directors that the Nursing Home Directors have no knowledge of the existence of this growing award surplus and that they do not have responsibility for its use.

We understand from the DRESMS that it acts only in an administrative capacity, without decision making power over the surplus awards. Due to this, we still need to establish who, at regional or national level, has responsibility for managing the accumulated surplus.

The DRESMS informs us that the surplus awards are kept without use “to cover any future deficits”. No forecast has been created to establish whether the occurrence of such deficits is plausible, in particular at sufficient scale to reabsorb the accumulated surplus. This is particularly surprising since, in many *départements*, the surplus awards are recurrent and seem predictable. A summary of the “all Nursing Homes” surpluses/deficits has recently been drawn up by the DRESMS, by manually compiling the figures of all ERRDs. This information, only recently available, is now sent to the financial department and France operations team.

We have verified that upon closure of the December 2021 accounts, the surplus awards not yet used are posted as prepaid income (“PCA”) at Head Office level, by Nursing Home, without these entries impacting the “NOP” management statements of the Nursing Homes (the ED therefore only sees that the surplus is neutralised in his operating account).

We still need to verify the accounting process for surplus awards over earlier periods, and therefore the completeness of the surplus accounted.

Preliminary findings

At this stage of our analyses, it is not possible to conclude that surplus of State financing, which have not been returned to the ARS, should have been. The legislation and practice of the ARS following communication of the ERRDs by Orpéa do not seem to require the return of surpluses and there does not appear a mechanism for their payback.

We have not found at this stage any plan for Orpéa to make a use of the surpluses accumulated, either locally or at Head Office level.

The increase in surpluses since 2019 and their low level of absorption raises questions regarding the potential improvement in healthand dependency care that the full use of the initial State-financing could have provided the residents with.

We are continuing to dig deeper into the question of how accumulated surpluses are managed and processed in the accounts.

Topic 3: Allegation regarding the existence of situations of conflicts of interest, even corruption, in the business relations existing between Orpéa and some public officials

3.1 Allegation regarding the relations with public servants

Reminder of the contents of the allegation as set out in the engagement letter:

- Privileged relations with public servants leading to the provision of confidential information benefitting the Orpéa Group in its bids for projects through appropriate adjustments to the needs of the authorities; recruitment of public servants previously involved in the oversight of Orpéa Group's operations.

Work performed

This allegation is covered through a set of interviews conducted with relevant Group staff, especially those in charge Nursing Homes business development activities. We are assessing the development processes and the contributions of the various stakeholders. We have also investigated the existence of an involved "Préfet" as alleged in the Book.

For all the staff thus identified (30 people so far), we conducted due diligences to qualify their business network and any reputation risks. For each individual, we are conducting a series of searches over directorships and shareholdings on the basis of various information sources: the database of mandates of the Orpéa Group (Dilitrust), legal sources of shareholding information (trades registers, audited annual report, and a set of private and public databases such as Data Inpi, Orbis, Pappers, Offshore leaks, etc.)

We are also conducting searches in private databases (Dowjones, Nexis diligence, Offshore leaks) for the existence of any sanctions or compliance-related red flags (alerts).

We are furthermore carrying out a reputation analysis in open sources on a series of keywords we have selected in connection with the allegations.

We are also conducting a search for any litigation or dispute through a specialised database.

Last, we are conducting a review (still in progress) of the charts of accounts of fees and commissions paid, and of other charts of accounts considered sensitive.

These activities are completed with a detailed keyword-based review (in progress) of the electronic correspondence between the identified stakeholders.

Preliminary findings

The work performed so far has enabled us to confirm the use by Orpéa of the services of a former "Préfet" serving the Group's business development activities.

This person was effectively a "Préfet" until 2006, date on which he entered an off-duty period that ended with a retirement in 2009. At this stage of our investigations, this person was still working for a public affairs firm, which does not match the setup described in the Book.

Orpéa asked this person to activate his network of relations to get access to valuable information or try to influence some decisions.

Our diligences have identified invoices paid by Orpéa to this person over the 2006-2014 period, as evidenced by emails over the period. We are pursuing our work to get check the related accounting documents.

Analyses are still ongoing to confirm or deny the confidential nature of the information allegedly obtained this way and/or assess the resources mobilized to get it.

Our investigation work is ongoing to seek out and identify any other public servant employed by Orpéa.

3.2 Allegation regarding the use of intermediaries

Reminder of the contents of the allegation as set out in the engagement letter:

- Use of intermediaries and business introducers tasked with using their network for undue advantages in kind or in cash

Work performed

We cover this allegation through a set of interviews conducted with Orpea staff in charge of business development, especially for Nursing Homes activity. We have striven to assess the development processes and the contributions of the various stakeholders. We have also sought the reality of the recourse to intermediaries as alleged in the Book, and notably those explicitly cited in the Book. For all the staff thus identified, we conducted due diligences to qualify their business network and any reputation risks.

While the use of intermediaries within the framework of the activity of commercial development is a commonly encountered business practice, our investigations also aim at verifying the allegation claiming that paid commissions were used to grant undue benefits to third parties.

We are additionally conducting a (still ongoing) review of a set of sensitive accounting records, notably the accounts related to paid fees and commissions and to the financial transactions undertaken with companies controlled by these intermediaries.

The activities above are complemented by a detailed review (in progress) of the electronic correspondence between the various stakeholders identified leveraging keyword searches.

Preliminary findings

The work performed so far enables us to confirm the use by the Orpéa Group of several intermediaries for its business development activities through service provision agreements as well as through taking stakes in some external companies.

We have not yet been able to accurately draw up an exhaustive list of the intermediaries used for this purpose by Orpéa. The reality and the exact nature of the services delivered is still subject to verifications in progress.

We can confirm that for at least one of these intermediaries involved in business development activities, who is explicitly cited in the Book, the fees paid represented several millions of euros. These fees were paid through various financial circuits. The complexity of some of these circuits requires additional investigations and the corresponding financial flows, as identified so far, date back to the 2010-2014 period. We have also noted, as mentioned in the Book, the existence of a dispute at the end of these operations resulting in exchanges between the intermediary and the Orpéa Group until early 2020. The reality and the exact nature of the services delivered are still subject to ongoing verifications. We are also continuing our investigations into the earlier periods.

Analyses are still ongoing to confirm or deny the allegations made, especially the fact that the commissions could have been used to provide third parties with undue advantages. We are not able to provide share any finding, even partial, on this allegation.

3.3 Allegation of attempted bribery of Victor Castanet

Reminder of the contents of the allegation as set out in the engagement letter:

- Use of an intermediary to try and prevent the author to publish the book "Les Fossoyeurs" in exchange for the sum of 15 million euros

Work performed:

We are covering this point through a detailed review (in progress) of the electronic correspondence between various stakeholders likely to have been involved on this matter, especially leveraging keyword searches in the electronic correspondence we have gathered.

The investigations on this point have not yet begun.

Preliminary findings

We are not able to share any finding, even partial, on this allegation.

Topic 4: Allegation regarding various breaches of employment law

4.1 Allegation regarding the employment contracts

Reminder of the contents of the allegation as set out in the engagement letter:

- It is claimed that there are a number of irregularities under employment law in the matter of employment contracts, use of temps, and delay in pre-hiring statements ("DPAE").

Work performed

Concerning allegation 4.1, the following investigation works are in progress.

We are conducting a review of the employment contracts from our esite visits and respect for the requirements of employment law in terms of contracting and pre-hiring statements.

For each visited site, we select a sample of employment contracts to review on the basis of payroll books and the list of staff declared to the supervisory authorities within ERRDs.

For each employee in the sample, we ascertain the existence of an employment contract, the reasons for contracting in case of a fixed-term contract, and the correct submission of a pre-employment declaration (DPAE).

To date, we have thus gathered documentation relative to more than 700 employment contracts (short-term and permanent contracts). This review will be continued over the rest of the sites to be visited.

The analysis of compliance of the elements thus gathered is still ongoing.

We have already found that there may be a delay in establishing the DPAEs.

We are also proceeding, through interviews and a review of electronic correspondence, to determine the existence or otherwise of any instruction to circumvent the rules of employment law in drafting employment contracts, as alleged in the Book.

Lastly, we are statistically reviewing whistleblowing reports made by employees on the digital platform provided.

Preliminary findings

We have found delays in Nursing Home of DPAEs. We are not yet able to establish a precise and statistically representative proportion. The investigations are ongoing.

4.2 Allegation regarding the misuse of CDD (temporary labour contracts)

Reminder of the contents of the allegation as set out in the engagement letter:

- Irregularity in the motives justifying the recourse to CDD working contracts

Work performed

For this allegation, the following investigation work is in progress: as mentioned for allegation 4.1, our teams are collecting a sample of employment contracts during the site visits. Part of the collected sample relates to CDDs, notably to enable us to review the justifications for the recourse to CDD contracts.

Furthermore, we are conducting a systematic analysis of the reports made by employees on the independent whistleblowing hotline provided to them.

Preliminary findings

In the collected data from payroll books, we have found out that 22% of the 548 reviewed contracts, corresponding to CDD contracts for permanent workers replacements or covering for the upcoming starting of a permanent worker (under CDI contract), the name of the replaced or expected-to-join permanent staff member mentioned on the contract does not correspond to a permanent staff member of Orpéa.

To date, considering the partial verifications undertaken, we are not able to share any other finding, even partial, on this allegation.

We are continuing our checks and controls and the review of the communications.

4.3 Allegation regarding working conditions

Reminder of the contents of the allegation as set out in the engagement letter:

- According to the Book, there are a number of non-conformities in working conditions, and notably discriminations.

Work performed

Regarding allegation 4.3, the following investigation work is in progress.

During our Nursing Home visits, we systematically ask employees about their working conditions. The topic of understaffing is regularly raised by the interviewees but are still subject to specific investigations (cf. Allegation 1.2).

Some employees have mentioned managerial issues. To date, the review of such issues points to sporadic and localised situations due to local organisational and managerial practices.

We also systematically analyse the reports made by employees on the independent whistleblowing hotline provided to them.

We are pursuing our investigations through the remaining site visits and the review of the electronic correspondence.

Preliminary findings

To date, considering the partial verifications undertaken, we are not able to communicate any finding, even partial, on this allegation.

We are continuing our checks and controls and the review of the communications.

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