



**CARING FOR PEOPLE OR PROFIT?  
THE FINANCIAL ENGINEERING & REAL  
ESTATE INVESTMENT OF GROUPE ORPEA**

A JOINT REPORT BY CICTAR, FÉDÉRATION SANTÉ ACTION  
SOCIALE CGT AND FÉDÉRATION CFDT SANTÉ-SOCIAUX

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Centre for  
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Corporate Tax  
Accountability  
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ORPEA  
LA VIE CONTINUE AVEC NOUS

# CONTENTS

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<b>5</b>	<b>FOREWORD</b>
<b>7</b>	<b>INTRODUCTION &amp; OVERVIEW</b>
<b>9</b>	<b>ORPEA'S STRATEGY: EXPANSION AND DEBT</b>
<b>11</b>	<b>ON THE GROUND</b>
<b>14</b>	<b>PROFITING FROM ITS PROPERTY PORTFOLIO</b>
<b>16</b>	<b>ORPEA AND OFFSHORE 'PLATFORM' COMPANIES IN PANAMA AND THE BRITISH VIRGIN ISLANDS</b>
<b>18</b>	<b>CHOOSING OPACITY: GROUPE ORPEA'S FINANCIAL AND CORPORATE DISCLOSURES</b>
<b>20</b>	<b>CONCLUSION &amp; RECOMMENDATIONS</b>
<b>23</b>	<b>ENDNOTES</b>







# FOREWORD

## FROM FÉDÉRATION CFDT SANTÉ-SOCIAUX ET LA FÉDÉRATION SANTÉ ACTION SOCIALE CGT



Over the last two years the public’s eyes have been opened to the crisis in the for-profit care sector. First the great number of preventable deaths in for-profit care homes in Europe and around the world during the first stages of the Covid-19 pandemic highlighted the extent to which older people’s rights, well-being, and lives are threatened by a focus on profits over people. And now in recent weeks a flood of shocking allegations and testimonies from residents, families, and workers have turned the spotlight onto Europe’s largest for-profit care home company, ORPEA.

This spotlight is welcome, and long overdue. Our members who work within ORPEA and other corporate care home operators have been speaking out for years – long before COVID – about dangerous levels of staffing, impossible and inhumane workloads, stagnant pay, and the risks that these conditions pose to carers and the cared-for alike. Rather than listening to the concerns of workers and working with their unions, ORPEA has attempted to intimidate and silence the voices of front-line care workers, interfere with genuine union activity, and oppose works councils. The results of this behaviour are now clear to everyone. The only way to fix ORPEA, and the broader care sector, is for the collective concerns of workers to be heard and addressed through their unions.

ORPEA’s drive for growth in recent years, adding a new bed every hour (on average), has come at a cost to both care home residents and workers.

Fédération CFDT Santé-Sociaux and Fédération Santé Action Sociale CGT reached out to CICTAR because of the organization’s track record of working with unions around the globe to follow the money in care and health sectors and expose the impacts of financialization and the winners and losers in the corporate takeover of public services.

As well as residents and workers, a constant loser in these situations is the taxpayer. The new research presented here begins to lay bare the mechanisms through which ORPEA has used care home revenues, funded in large part by public money, to finance the debt-fuelled expansion of a vast European property portfolio. This portfolio has been purchased and sold through a complex maze of corporate structures from Luxembourg to the British Virgin Islands, largely hidden from the company’s own shareholders and the public. ORPEA is now beginning to sell off this portfolio to property investors. Care homes, previously saddled with debt, are now weighed down with rental costs far into the future. Once again care home fees – from governments, residents and their families – which should be used to provide our elderly with basic dignity and respect are consumed by inflated financial costs.

While ORPEA's property sales may generate instant returns for ORPEA and rental income for property investors, the possible short-term damage to the quality of care may also impact returns to shareholders of ORPEA and its property investment partners.

ORPEA's largest shareholder is the Canadian government's default pension fund for Canadian workers. Coincidentally, the Canadian government's pension fund for federal workers is a major shareholder in Korian, ORPEA's top competitor, and the direct owner of another large, financialized care home operator which is the focus of ongoing union and community campaigns in Canada. Workers' wages are invested in a financial mechanism that exploits both active and retired workers. The Canadian government needs to ensure that its crown corporations follow the responsible investment principles they espouse.

Meanwhile the largest purchaser of ORPEA's property assets so far is ICADE Santé, the publicly listed real estate arm controlled by the *Caisse des Dépôts et Consignations*, a French government fund which by law is supposed to act in support of the public interest and the public policies of the state. Another purchaser of ORPEA properties is Cofinimmo, a large publicly listed Belgian real estate investor, which also espouses socially responsible investment policies.

These and other stakeholders must now ask fundamental questions of ORPEA, not only about its care practices, but about the financial engineering behind them.

While more detailed recommendations are in the conclusion of this report, Fédération Santé Action Sociale CGT and Fédération CFDT Santé-Sociaux immediately call on the French government to:

- Review in detail ORPEA's finances and operational performance and cooperate with the European Union and other relevant governments to do the same;
- Require public accountability and transparency from ORPEA so that, at a minimum, its reporting matches that of other comparable public companies;
- Implement reforms to guarantee that all future government funding is spent directly on staffing and care and require transparency on staffing levels at each facility; and
- Ensure that workers' rights and whistle-blower protections are guaranteed at ORPEA and across the broader care sector.

These basic common-sense reforms are essential to ensure that our elderly are treated with dignity and respect and that care for all is prioritised over profits for the few. As the old adage goes, sunlight is the best disinfectant.

# INTRODUCTION & OVERVIEW



Groupe ORPEA, Europe's largest care home operator, has lately become the ugly face of the for-profit care sector. Journalists and employees have alleged low standards of care, and rationing of food and basic sanitary items, in some of France's most expensive care homes (EHPADs).<sup>1</sup> They have also reported regular efforts by ORPEA to keep wages and staffing ratios low.<sup>2</sup> In the past, Groupe ORPEA had already gained attention for alleged spying on employees and retaliation against unionized workers.<sup>3</sup> Hearings on the subject of ORPEA's operations and finances are now underway in the Social Affairs Commission of the National Assembly,<sup>4</sup> and a Senate Commission of Enquiry into ORPEA has been launched.<sup>5</sup>

This short report, based on a larger body of research, outlines the financial engineering behind the alleged austerity of ORPEA's care homes. The Centre for International Corporate Tax Accountability and Research (CICTAR) has been investigating Groupe ORPEA's structure and finances across Europe. Its findings show how ORPEA has used the revenues from its care homes – a significant proportion of which derive from public funds – to build a huge property portfolio, valued at some €7.4 billion,<sup>6</sup> which it is now beginning to sell off to property investment funds, turning property speculation on the land and buildings of its own care homes into a source of returns for its shareholders.

To acquire this portfolio, ORPEA has taken on a growing burden of external debt. The annual cost of this debt has grown twice as fast as the company's revenues. ORPEA's corporate structure ensures that the repayment of this debt, and the rental payments on finance leases through which it purchases other properties, are carried by the revenues of its newly acquired care homes. This debt burden rises while staff levels shrink and operating profits plummet.

After ORPEA sells the properties at a profit, the care homes – still operated by ORPEA – will then lease back the properties from **new owners**. These care homes will effectively continue to pay for ORPEA's property speculation, further squeezing the proportion of public funding that will actually be spent on care. A growing body of evidence, from across the globe, demonstrates the link between these types of financial practices and pressure on services, poor working conditions, and poor quality of care.<sup>7</sup>

the new  
owners?

Ironically, in the case of ORPEA's first tranche of property **sales** these new landlords include ICADE Santé which is controlled by the French government's own investment arm, the *Caisse des Dépôts et Consignations*, a fund which by law is supposed to act in support of the public interest and the public policies of the state.<sup>8</sup>

sales,

CICTAR's research also shows how ORPEA is buying and selling its growing property portfolio via a complex structure of over 40 subsidiary companies it has set up in Luxembourg. We explain below how this structure could generate tax benefits as ORPEA sells off its EHPAD properties in future years. Whatever the purpose, corporate reporting is increasingly opaque: despite these Luxembourg companies owning tens of millions of euros of assets, ORPEA has not disclosed the vast majority of them in public reports to shareholders. Since 2018, ORPEA has also systematically reduced the level of disclosures in the individual financial filings of its Luxembourg subsidiaries. In at least one case, the beneficiaries of an ORPEA property acquisition in France remain entirely concealed behind shell companies in the Caribbean secrecy jurisdictions of Panama and the British Virgin Islands.

The structures and transactions described in this document are not unlawful *per se*, and we make no allegations of illegality about the tax treatment of profits and assets, or about ORPEA's financial probity. Indeed, the opacity of ORPEA's financial reporting – significantly less transparent than other comparable publicly traded companies – makes it impossible for us to do so. It remains for ORPEA to explain the purpose of these structures and transactions. Likewise it is for the *Association des Marchés Financiers* (AMF) and other relevant authorities to determine whether ORPEA's increasingly limited corporate disclosures in recent years have complied with accounting standards, EU corporate disclosure rules, and the regulations of the AMF.



# ORPEA'S STRATEGY: EXPANSION AND DEBT

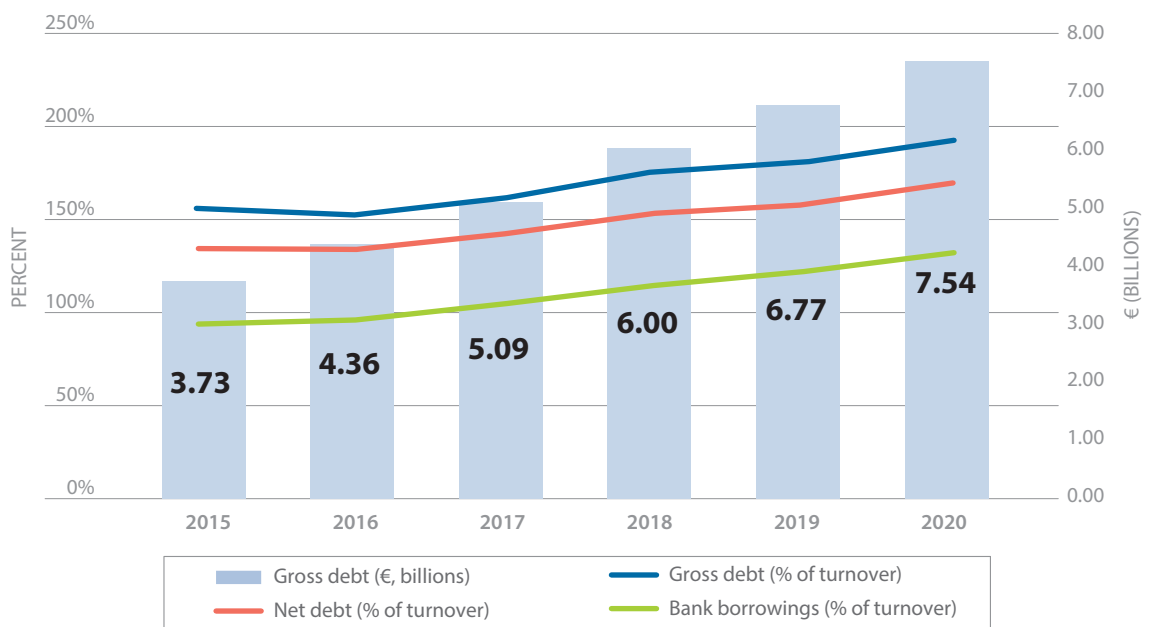
Headquartered in France, Groupe ORPEA operates 1,114 care homes and other private medical facilities in 23 countries, which collectively have over 111,800 residents (beds).<sup>9</sup> Nearly half (572) of these facilities are in France and the Benelux countries, which account for 60% of ORPEA's revenues.

ORPEA's strategy is expansion through the relentless acquisition of new care homes in France, across Europe, and beyond. Since 2015, ORPEA has on average added a bed to its operations every hour. During 2020, ORPEA acquired a new care home or hospital every 3.3 days.<sup>10</sup> The group's revenues and profits have grown accordingly: turnover increased by 64% between 2015 and 2020 (from €2.4 billion to €3.9 billion), and profits grew by 15% (from €183 million to €210 million).

ORPEA's expansion, however, has been fuelled substantially by debt rather than its own profits. Its total debt has doubled since 2015. And the annual cost of its debt burden in loan interest and bond coupon payments has risen by 140% since 2015 – more than twice as fast as its revenues.<sup>11</sup> Has this growth, and accompanying debt, come at the expense of care for ORPEA's residents?<sup>12</sup>

As of 2021, 87% of ORPEA's net debt is real estate debt.<sup>13</sup> This means that more and more of the fees paid by ORPEA's care home residents – partly funded by the state in France and many other European countries – are being used to service the debts fuelling the expansion of ORPEA's property portfolio. Is it appropriate for public funding to finance the expansion of a for-profit company's property portfolio?

**Figure 1: Groupe ORPEA debt, 2015-20**



**Source:** Groupe ORPEA consolidated financial statements, 2015-20.



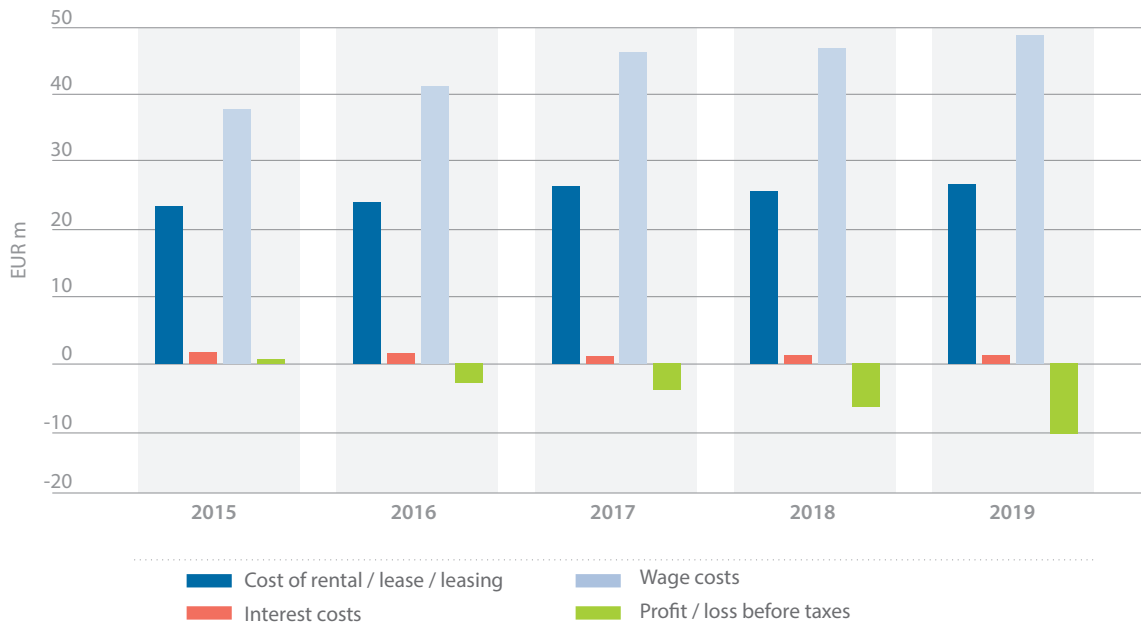
# ON THE GROUND

The finances of the subsidiary companies that actually operate ORPEA's care homes show the impact of this burden of property debt. Residenz Gruppe Bremen is a good example. *(We use a German example here because ORPEA must publicly disclose the consolidated accounts of its care home groups in Germany. ORPEA's French EPHADs are distributed amongst a more dispersed set of holding companies, including Sociétés Civiles Immobilières (SCI) which are not obliged to file publicly available annual accounts).*

ORPEA acquired this family-owned group of 36 care homes in 2015, adding 3,006 beds to its operations in Germany.<sup>14</sup> ORPEA's deal advisers announced at the time that *"the acquisition will be financed entirely from the Group's cash position"*.<sup>15</sup> However, over the next two years, envisaging the construction of five new care homes, ORPEA loaded the Residenz Gruppe with over €40 million of debt, including loans from group companies, and a new €20 million loan from an external bank.<sup>16</sup>

While interest costs on Residenz Gruppe's loans have decreased in recent years as its external loans are paid off, its much more significant rental costs have continued to rise (Figure 2). Notably, ORPEA states that finance leases are its preferred option for new acquisitions which do not already own properties, further building its property portfolio.<sup>17</sup> These are leases which impose higher rental costs in return for allowing ORPEA to own the property at the end of the lease, either outright or after a small further payment. Residenz Gruppe pays almost €20 million a year in rental costs on leases, primarily property leases.<sup>18</sup> Social care is typically an industry with high labour costs. However, in this case, the leasing costs and loan interest payments equal nearly half of Residenz Gruppe's wage bill (Figure 2). These significant financial costs thus appear to leave less funding available for front-line care.

**Figure 2: Residenz Gruppe financing costs and financial results since its acquisition by ORPEA**

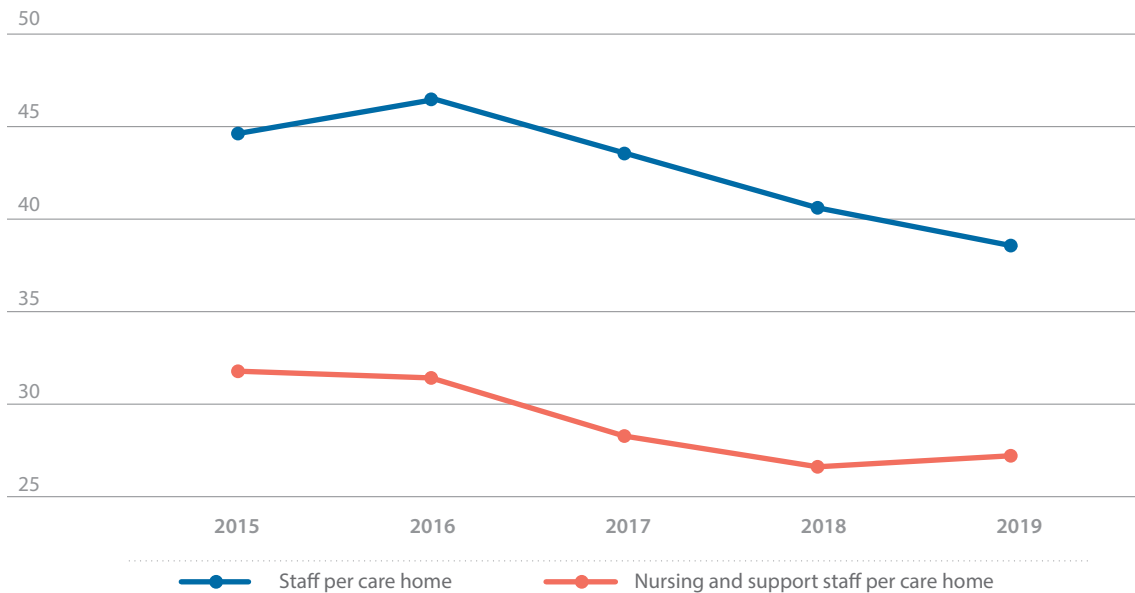


**Source:** Residenz Gruppe GmbH consolidated financial statements, 2015-19

Staffing levels in particular are critical to the quality of care in EHPADs. The number of full-time-equivalent staff in Residenz Gruppe’s EHPADs fell 10% between 2015 (when ORPEA acquired the group) and 2019, the last full year for which figures are publicly available. Staff numbers have decreased despite ORPEA adding two new care homes to the group during this period. The result is fewer and fewer staff in each EHPAD, including nursing and support staff (Figure 3).<sup>19</sup>



**Figure 3: Residenz Gruppe: number of staff per EHPAD since ORPEA's acquisition of the group**



**Source:** Residenz Gruppe GmbH consolidated financial statements, 2015-19

Equally important are how these staff are treated and remunerated and their level of training and experience. ORPEA's management insists that it meets legally required staffing levels, and that its investments and staff training are raising wages for staff, along with labour market competition.

According to the CEO of ORPEA Deutschland:

“Skilled nursing staff in Germany are difficult to find for less than €3,000 per month. The so-called starvation wages for skilled nursing staff may have existed in the past, but not anymore. The salaries of care professionals are now at the level of the average salary in Germany.”<sup>20</sup>

ORPEA does not disclose its wage levels directly. Residenz Gruppe financial reports suggest that although wages per head have been rising overall since 2015, between 2015 and 2019 they averaged around €2,250 per month, including higher-paid managerial staff. This suggests average hourly pay of around €14.80, again including higher-paid managers: considerably less than the wage levels evoked by the CEO of ORPEA Deutschland.<sup>21</sup> In 2018 the median hourly earnings of all employees in Germany was €17.23.<sup>22</sup> This pattern of low wages and understaffing appears to be reflected in ORPEA's operations in France and across Europe.<sup>23</sup>

In the face of staff dissatisfaction and attempts to organise, ORPEA tried to dismiss the chair of the Residenz Gruppe Bremen works council and dissolve the works council itself, actions which the regional labour court in Bremen found were unlawful in April 2021.<sup>24</sup>

# PROFITING FROM ITS PROPERTY PORTFOLIO

ORPEA makes no secret of wanting to grow its real estate portfolio. It argues that bringing the premises of its care homes in-house brings long-term benefits: ultimately saving on long-term rental costs and increasing measures of profitability.<sup>25</sup>

These long-term benefits would be accurate if ORPEA kept the newly acquired or newly built properties in-house, as it presented in its 2015 strategy.<sup>26</sup> Significantly, however, at around that time ORPEA started to shift the ownership of new properties into Luxembourg holding companies, separated from the care home operating companies.<sup>27</sup> This is a common tactic used by for-profit operators around the world to extract further profits from care homes. Between 2015 and 2017 ORPEA transferred the ownership of care home properties in Germany and France to a phalanx of 29 Luxembourg holding companies named ORESC 1 to ORESC 24, and OREG 1 to OREG 5.<sup>28</sup> These now form part of a larger structure of at least 40 Luxembourg subsidiaries.

By separating the care home property portfolio into individual Luxembourg holding companies, ORPEA can then sell the companies off to external buyers, if it chooses, and lease the properties back to ORPEA's care home operations. Moreover, selling the properties via sales of the shares of a Luxembourg company, rather than directly selling the underlying properties, may have significant (future) tax advantages for both buyer and seller (Box 1).

Over the last two years ORPEA began to sell off these Luxembourg holding companies to external property investors, thereby generating cash for ORPEA's further expansion. In 2020 it sold ten of its care homes' properties in Germany, and one in France, to ICADE, the property investment wing of the French government-owned *Caisse des Dépôts et Consignations* (CDC).<sup>29</sup> ICADE is now the landlord of these ORPEA care homes and receives rental payments.<sup>30</sup> At least three of these sales were executed by ICADE purchasing the shares of three ORPEA subsidiaries in Luxembourg.<sup>31</sup> The Belgian real estate investment fund Cofinimmo has also bought the real estate of four of ORPEA's Belgian care homes and one of its Spanish homes.<sup>32</sup>

ORPEA's limited financial disclosures in Luxembourg make it impossible to determine how much the group gained from these sales, or what tax it may have paid on those gains. However, we can see that the overall profits of the seller company, ORPEA Real Estate Luxembourg SARL,



increased dramatically from a small loss of €288,000 in 2019 to a €11.4 million profit in 2020, presumably due to the real estate sales to ICADE.<sup>33</sup>

ORPEA's CEO described this sell-off as the first stage of a strategy that will see a quarter of its property portfolio sold off and leased back from property investors by 2024. He stated:

*"This transaction has been carried out as part of a disposal plan, totalling over €1.5 billion in assets to be sold over the 2020–2024 period. Institutional investors' interest in healthcare real estate remains high."*<sup>34</sup>

ORPEA also aims to sell off half of the new care homes that it is building across Europe.<sup>35</sup> As seen above, ORPEA's construction spree is fuelled by debt carried by its operating companies. This shift in ORPEA's property strategy begs the question whether the company is more focused on real estate development than on providing care to its residents.

### **Box 1: Possible tax advantages of selling property via Luxembourg holding companies**

ORPEA's limited financial disclosures in Luxembourg make it impossible to see how the profits and gains of its property sales are being taxed. However, Luxembourg property-owning companies can be convenient vehicles for foreign investors to buy and sell properties in European countries without incurring tax on the resulting gains. If the property-owning company is in Luxembourg and is owned by another Luxembourg company, as in the sales described above, any capital gains should accrue to the top Luxembourg company without being taxed in Luxembourg, in accordance with EU and Luxembourg tax law.<sup>36</sup> And since the shares of a holding company and not the property itself is being sold, the gain may also not be taxed in the country where the property is located.<sup>37</sup> German tax law changed in 2018 to try to capture gains from such offshore indirect transfers of real estate within the German tax net. However, this provision may be counteracted in some cases by longstanding tax treaty provisions and generally applies to sales by individuals, not to sales by companies.<sup>38</sup> Meanwhile under French and EU tax law, the proceeds of the real estate sales may also escape French tax when they are passed up to ORPEA in France (although the apex Luxembourg holding company has not yet paid any dividends to its parent company).<sup>39</sup>

# ORPEA AND OFFSHORE 'PLATFORM' COMPANIES IN PANAMA AND THE BRITISH VIRGIN ISLANDS

It is not unlawful for ORPEA to structure its property sales via the Luxembourg structures described above. The overseas structuring of ORPEA's purchases of care home properties from individual owners, however, has recently come under legal scrutiny. In March 2021, the French anti-corruption and economic crime office (OCLCIFF) searched ORPEA's head offices and interviewed senior executives. According to French media, the search related to an investigation into a 2008 sale to ORPEA of a family-owned care home in Bouches-du-Rhone, France, for around €9 million. The sale was allegedly made via "offshore intermediaries" in order to allow the sellers to evade tax on the proceeds.<sup>40</sup> ORPEA insists that none of its own tax liabilities were evaded, that the enquiry relates solely to the tax liabilities of the sellers, and that ORPEA is not a direct party to the proceedings.<sup>41</sup>

However, CICTAR's research suggests that such offshore structuring may not be an isolated occurrence in ORPEA's property purchases. CICTAR has found another complex offshore structure nestled amongst ORPEA's Luxembourg subsidiaries and never disclosed in ORPEA's reporting to shareholders.

The complex maze of transactions worked as follows. In 2011, ORPEA purchased a family-owned rehabilitation care facility in Brégy, northern France, *Maison de Convalescence Le Château de Brégy*.<sup>42</sup> The French company that operated the care home itself was absorbed into ORPEA's group structure.<sup>43</sup> ORPEA also purchased the facility's buildings and land, which its owners had already moved, years beforehand, into a separate French property company, *SCI Château de*



*Brégy*.<sup>44</sup> Though limited financial disclosures make the precise sequence and timing impossible to determine, at some point after 2011 this Brégy property ended up on the balance sheet of a discreet Luxembourg company, Samosa S.A.<sup>45</sup>

Samosa S.A. had been registered in 2007 by a Luxembourg accountancy firm which also sets up and manages all of ORPEA's Luxembourg subsidiaries.<sup>46</sup> One of Samosa S.A.'s founding directors is also the local director of ORPEA's many Luxembourg subsidiaries.<sup>47</sup> This does not mean that Samosa S.A. was originally set up on behalf of ORPEA but does raise the question of whether it was ORPEA, or the seller of the care home, which arranged for the use of this offshore structure in the subsequent property purchase. At some point prior to 2016, ORPEA purchased Samosa S.A.<sup>48</sup> Once again, the precise date is impossible to determine, because Groupe ORPEA's shareholder reporting has never disclosed Samosa S.A. as one of its subsidiaries.<sup>49</sup> Unlike the 'Sociétés à Responsabilité Limitée' (SàRL) in Luxembourg through which ORPEA holds much of its property portfolio, 'Sociétés Anonymes' like Samosa S.A. do not have to disclose changes in ownership.

What we can establish is that when it was originally set up, 99% of Samosa's shares were owned by a Panamanian company, Beston Enterprises Inc, and 1% owned by a British Virgin Islands' company, Bynex International Ltd.<sup>50</sup> Both Beston and Bynex had already been in existence for several decades (Beston was registered in Panama in August 1986), and were also managed (at least by 2016) by the same Luxembourg accountancy firm.<sup>51</sup> Both Beston and Bynex have been the proxy shareholders of numerous other companies, set up in Luxembourg and elsewhere, that have no identifiable link to ORPEA.<sup>52</sup> (For example, French journalists have reported that the owner of the *Libération* newspaper reportedly used Beston and Bynex in the holding structures of his businesses).<sup>53</sup>

These characteristics strongly suggest that Beston and Bynex are 'platform' companies: a type of shell company set up by accountancy firms or company service providers for multiple different, unconnected clients to use, nominally controlled by proxy shareholders and directors, and usually registered in an offshore 'secrecy' jurisdiction.<sup>54</sup> 'Platform' companies can act as proxy shareholders for other companies (as in this case), hold assets, and execute transactions for numerous different, unconnected parties on the basis of contracts or proxy agreements between the proxy shareholders and the real owners of the assets. There is nothing unlawful about their use, but the majority of previous examples of such structures investigated by researchers have concerned individual investors, rather than within the transactions and structures of a major publicly listed company.<sup>55</sup>

This two-step property acquisition via (1) a Luxembourg company whose ownership changes do not have to be disclosed publicly, and (2) Panamanian/British Virgin Islands 'platform' companies holding assets on behalf of multiple beneficiaries who may not even be disclosed to national authorities, is likewise not unlawful *per se*. However, it means that the beneficiaries of these property transactions are thoroughly anonymised. It is for ORPEA to explain the purpose behind this maze of offshore transactions.

# CHOOSING OPACITY: GROUPE ORPEA'S FINANCIAL AND CORPORATE DISCLOSURES

The opacity of the transactions within ORPEA's real estate portfolio described above may raise concerns for shareholders and the general public. Moreover, the group's wider financial reporting is also very limited in its disclosure of assets, structures and transactions in comparison with other comparable publicly traded companies.<sup>56</sup> This broader lack of transparency should also raise concerns and must be addressed.

- Even as the group has expanded, ORPEA's public reporting has progressively reduced the number of subsidiaries disclosed in its consolidated financial statements. Until 2014, it ostensibly disclosed all 314 subsidiaries within the group.<sup>57</sup> However, in 2015 as its international expansion took off, ORPEA only disclosed 16 "main companies that enable the ORPEA group to carry out its activity and to manage its property portfolio".<sup>58</sup> It still disclosed a further 107 companies in which the group had a "main equity interest",<sup>59</sup> but at least 191 subsidiaries, likely still within the group, simply disappeared from its public reporting.
- Likewise, the financial statements of ORPEA's top holding company, ORPEA S.A., disclose only the company's direct subsidiaries.<sup>60</sup> Any companies in the numerous layers below this top layer are no longer mentioned in ORPEA's public reporting at all.
- This means that almost the entirety of the holding structure that ORPEA has built since 2014 for its non-French property portfolio – one of its major profit centres – is not disclosed in Groupe ORPEA's public reporting. This includes 37 of the 40 Luxembourg subsidiaries that CICTAR has been able to identify. Two of the three Luxembourg subsidiaries that are disclosed are listed only by their initials (CEESCH and GCSE) with no indication where they are registered.

Abbreviating the reporting of ORPEA's corporate structure may seem like a narrow technical issue. But without knowing the structure, extent, and transparency of ORPEA's subsidiaries, shareholders, investors, and other stakeholders cannot see where it is operating, what assets it owns, how debts and other financial instruments are structured, and who are the beneficiaries of its property purchases – a question of current interest to French law enforcement.<sup>61</sup>

Declaring subsidiaries is a requirement of the French market regulator, the *Autorité des Marchés Financiers*, for publicly traded companies.<sup>62</sup> Corporations can legitimately make judgements about how to fulfil their disclosure requirements. However, Groupe ORPEA needs to explain why nearly 40 subsidiaries (possibly more) – at the core of a crucial profit centre holding tens of millions of euros of property assets – should be entirely undisclosed.

Significantly, other companies have made different choices about the same subsidiaries. ICADE, which has a balance sheet and property portfolio comparable to that of ORPEA, evidently regarded the three Luxembourg companies it acquired from ORPEA in 2020 to be sufficiently material to its accounts to disclose all three of them in its 2020 financial statements.<sup>63</sup>



# CONCLUSION & RECOMMENDATIONS

ORPEA's structures and strategies appear increasingly to be those of a property investment company rather than a care provider. It appears that providing care, heavily reliant on government spending and subsidies, is secondary to extracting profits from real estate. Potentially excessive finance costs to expand the property empire, including third party debt and finance leases, are secured from revenues of care homes which are underpinned by public funds. In this way, ORPEA's business strategy could be draining money away from front-line care and subsidising further real estate investment. Selling properties to third party investors – via Luxembourg holding structures – may provide immediate returns for ORPEA's shareholders, but the long and short-term impacts of this strategy must be examined on all sides.

As a publicly traded company, ORPEA may feel that this is the best way to create returns for its shareholders. For a care provider, though, the resulting finance costs squeeze residents' fees, and limit both workers' wages and staffing levels. Finally, residents, workers, and taxpayers deserve to know who the ultimate beneficiaries of ORPEA's property speculation are, currently hidden behind limited financial disclosure and opaque offshore companies. As a major recipient of public funding and as a key provider of care services for the elderly in France and increasingly across Europe, there is an urgent need for greater transparency and accountability.

CFDT and CGT immediately call for the French government to:

- Review in detail ORPEA's finances and operational performance and cooperate with the European Union and other relevant governments to do the same in other jurisdictions, particularly in light of cross-border property sales transactions;
- Require public accountability and transparency from ORPEA so that, at a minimum, its reporting matches that of other comparable public companies, including disclosure of all subsidiaries, with their full legal name, a declaration of the primary purpose of each entity, and the jurisdiction in which it is incorporated. As a condition of future government funding ORPEA should also be required to fully implement reporting under the [GRI Tax Standard](#), which requires a widely accepted format for public country-by-country reporting on taxes paid, revenues, profits, losses, labour costs and other critical financial information;
- Implement reforms to guarantee that all future government funding is spent directly on staffing and care and cannot be used for other purposes, including property investment or finance costs related to property investment;

- Require transparency and public reporting on staffing levels by different job classifications at each facility across the care sector so that residents and their families can make informed decisions; and
- Ensure that workers' rights and whistle-blower protections are guaranteed at ORPEA and that there is ongoing dialogue about raising wages and improving working conditions across the care sector.

Acknowledging concerns already raised by Canadian unions – Fédération Santé Action Sociale CGT and Fédération CFDT Santé-Sociaux call on the Canadian government to thoroughly examine whether major investments by Canadian crown corporations in care home operators in France and across Europe, as well as in Canada, are in line with responsible investment policies and widely accepted standards of transparency; and whether they are upholding the long-term interests and values of Canadian pension fund beneficiaries.

Fédération Santé Action Sociale CGT and Fédération CFDT Santé-Sociaux also call on other shareholders in ORPEA and in its real estate investment partners, including ICADE Santé and Cofinimmo, to examine the impact of financing property development and rental payments on the quality of care in ORPEA's care homes and demand higher levels of transparency.

Unless there is strong action for real change – and a significant increase in transparency and accountability – the currently unacceptable conditions for residents and front-line care workers will not improve. Without restoring credibility to ORPEA and the broader care sector, investors may ultimately lose out as well.





# ENDNOTES

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- 2 Leïla Miñano et Benoît Drevet, 'Dans les Ehpads du groupe ORPEA, des CDI introuvables', *Investigate Europe*, 2 février 2022, <https://www.investigate-europe.eu/fr/2022/dans-les-ehpad-du-groupe-ORPEA-des-cdi-introuvables/> ; Lucy Redler, *Our Health, Their Profit? Case Studies on Union Busting by Healthcare Corporations and Trade Union Resistance*, Rosa-Luxemburg-Stiftung, novembre 2021, [https://www.rosalux.de/fileadmin/rls\\_uploads/pdfs/Studien/Studien\\_14-21\\_Unsere\\_Gesundheit\\_en\\_web.pdf](https://www.rosalux.de/fileadmin/rls_uploads/pdfs/Studien/Studien_14-21_Unsere_Gesundheit_en_web.pdf)
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- <sup>8</sup> Code Monétaire et Financier, Article L518-2, [https://www.legifrance.gouv.fr/codes/section\\_lc/LEGITEX000006072026/LEGISCTA000006170635/#LEGISCTA000006170635](https://www.legifrance.gouv.fr/codes/section_lc/LEGITEX000006072026/LEGISCTA000006170635/#LEGISCTA000006170635)
- <sup>9</sup> Groupe ORPEA, *2020 Universal Registration Document*, 12 May 2021, Section 1.1, [https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA\\_URD\\_2020\\_a994f.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA_URD_2020_a994f.pdf)
- <sup>10</sup> Groupe ORPEA, *Universal Registration Document 2020*, 12 May 2021 [https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA\\_URD\\_2020\\_a994f.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA_URD_2020_a994f.pdf). During 2020 the number of ORPEA-owned facilities increased from 1004 to 1114. Since 2015, ORPEA's number of beds has increased from 67781 to 111801.
- <sup>11</sup> Author calculation from Groupe ORPEA, consolidated accounts, 2015-20.
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- <sup>13</sup> Groupe ORPEA, FY 2020 Full-year results investor presentation, Slide 35, [https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/Pres\\_ORPEA\\_2020\\_Results\\_ENG\\_13d77.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/Pres_ORPEA_2020_Results_ENG_13d77.pdf)
- <sup>14</sup> ORPEA Residenz Holding GmbH annual accounts, 2016. The Residenz Gruppe's operations included 36 operating care homes, two care homes under construction, 8 care homes, 3 day care facilities, and 5 further facilities planned.
- <sup>15</sup> Axcit Capital Partners, Press Release, 22 July 2015, <https://www.acxit.com/en/ORPEA-residenz-gruppe-bremen/>
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- <sup>17</sup> Groupe ORPEA, *Universal Registration Document 2020*, Section 1.3.4.2 – Strategy of Real-Estate Ownership, pages 32-33, [https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA\\_URD\\_2020\\_a994f.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA_URD_2020_a994f.pdf)
- <sup>18</sup> The profit-loss account of ORPEA Residenz Holding GmbH does not disaggregate rental costs of different types, but its notes indicate that as of 2019, 99.8% of lease obligations on its balance sheet (€227.4m of €227.8m) are for 'business premises'. The remaining 0.2% is for the lease of inventory. ORPEA Residenz Holding GmbH financial statements, 2015-2019.
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- <sup>22</sup> Eurostat, *Median hourly earnings, all employees (excluding apprentices) by sex*, [https://ec.europa.eu/eurostat/databrowser/view/earn\\_ses\\_pub2s/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/earn_ses_pub2s/default/table?lang=en)
- <sup>23</sup> Leïla Miñano and Benoît Drevet, 'At ORPEA Group's care homes in France, permanent contracts are nowhere to be found', *Investigate Europe*, 2 February 2022, <https://www.investigate-europe.eu/en/2022/at-ORPEA-groups-care-homes-in-france-permanent-contracts-are-nowhere-to-be-found/> ; EPSU, 'EPSU challenges union rights violations by German subsidiary of French multinational ORPEA', 16 August 2018, <https://www.epsu.org/article/epsu-challenges-union-rights-violations-german-subsidiary-french-multinational-ORPEA>
- <sup>24</sup> EPSU, 'Health and social care: union defends works council but faces fight over dismissals' (n.d.), <https://www.epsu.org/epsucob/2021-epsu-collective-bargaining-news-april-no9/health-and-social-care-union-defends-works>
- <sup>25</sup> For the impact of changed IFRS 16 accounting standards: see Groupe ORPEA, FY2015 full year results presentation, Slide 38, [https://www.orpea-corp.com/images/orpeafinance/pdf/dernieres\\_presentations/uk/Pres\\_ORPEA\\_FY15\\_VENG\\_web.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/dernieres_presentations/uk/Pres_ORPEA_FY15_VENG_web.pdf)
- <sup>26</sup> Groupe ORPEA, HY 2015 results, slide 52, [https://www.orpea-corp.com/images/orpeafinance/pdf/dernieres\\_presentations/uk/Pres\\_ORPEA\\_HY15\\_ENG\\_bd.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/dernieres_presentations/uk/Pres_ORPEA_HY15_ENG_bd.pdf)
- <sup>27</sup> In 2015 ORPEA placed the ownership of at least five German care home premises, worth over €46.6 million, in a Luxembourg subsidiary, ORPEA Real Estate Germany Holding SARL. Financing for these properties has come at least partly from over €20 million in loans, at approximately 2.3% per annum, from the German bank Bremer Landesbank (now Nord LB). The loans, of course, are secured on current and future rental payments from the care home

operations themselves. Author calculations from ORPEA Real Estate Germany Holding SARL, annual financial statements, 2015-20, accessed via Luxembourg Business Register at [www.lbr.lu](http://www.lbr.lu)

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- <sup>29</sup> ICADE, 'Icade Santé Continues to Expand into Germany with ORPEA', press release, 20 December 2021, <https://www.businesswire.com/news/home/20211219005022/en/Icade-Sant%C3%A9-Continues-to-Expand-Into-Germany-With-ORPEA>; Groupe ORPEA, 'ICADE acquires 9 healthcare facilities in Germany and France from ORPEA for €145 million', press release, 21 July 2020, [https://www.orpea-corp.com/images/orpeafinance/pdf/Communiqués/ENG/2020/ORPEA\\_ICADE\\_EN\\_1ccfc.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/Communiqués/ENG/2020/ORPEA_ICADE_EN_1ccfc.pdf)
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- <sup>36</sup> For Luxembourg's participation exemption, see KPMG, *Luxembourg Participation Exemption 2018* (n.d.), <http://assets.kpmg/content/dam/kpmg/lu/pdf/Luxembourg-Participation-Exemption-EN.pdf>; see also EU Council, *Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States*, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32011L0096>
- <sup>37</sup> The tax treatment depends upon the taxation of property capital gains in the domestic law of the country concerned. Most tax treaties, following the OECD and UN models, give taxing rights over gains from sales of shares in companies that derive their value either directly or indirectly from immovable property in that country, in accordance with Article 13 of the respective model treaties.



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- <sup>44</sup> Registration information for SCI Château de Brégy at the Greffe du Tribunal de Commerce de Compiègne, accessed via [www.infogreffe.fr](http://www.infogreffe.fr). In February 2007 this company was dissolved and the family established a new, identically named company in Maisons-Alfort: registration information for SCI Château de Brégy at the Greffe du Tribunal de Commerce de Créteil, accessed via [www.infogreffe.fr](http://www.infogreffe.fr)
- <sup>45</sup> Annual accounts for Samosa S.A are accessible via the Luxembourg Business Register ([www.lbr.lu](http://www.lbr.lu))
- <sup>46</sup> Registration document for Samosa S.A. filed with the Luxembourg Business Register ([www.lbr.lu](http://www.lbr.lu))
- <sup>47</sup> Luxembourg Business Register ([www.lbr.lu](http://www.lbr.lu))
- <sup>48</sup> Annual accounts for years 2015 and 2016 filed by ORPEA Real Estate Luxembourg SARL with the Luxembourg Business Register ([www.lbr.lu](http://www.lbr.lu)).
- <sup>49</sup> Samosa S.A.'s shares were transferred to ORPEA Real Estate Luxembourg SARL at some stage during 2016, but the structure of its ownership prior to that is undisclosed. 2015 and 2016 annual financial statements for ORPEA Real Estate Luxembourg SARL, accessed via Luxembourg Business Register ([www.lbr.lu](http://www.lbr.lu)).
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- <sup>60</sup> Groupe ORPEA, *2020 Universal Registration Document*, Section 2.1.2, pp. 287-290, [https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA\\_URD\\_2020\\_a994f.pdf](https://www.orpea-corp.com/images/orpeafinance/pdf/Documentation/EN/2021/ORPEA_URD_2020_a994f.pdf)

<sup>61</sup> 'Le parquet financier enquête sur le groupe de maisons de retraite ORPEA', *Challenges*, 5 October 2021, [https://www.challenges.fr/entreprise/le-parquet-financier-enquete-sur-le-groupe-de-maisons-de-retraite-ORPEA\\_783477](https://www.challenges.fr/entreprise/le-parquet-financier-enquete-sur-le-groupe-de-maisons-de-retraite-ORPEA_783477)

<sup>62</sup> AMF, *Periodic and ongoing disclosure obligations* (General Regulation, Book II, Title II), Subsection 2, Article 222-3, <https://www.amf-france.org/en/eli/fr/aai/amf/rg/article/222-3/20210101/notes>. The AMF's rules require listed companies to include in annual financial reports a set of consolidated accounts prepared in compliance with Regulation (EC) 1606/2002, and thus in compliance with international accounting standards, including the IFRS 12 standard, which requires companies to disclose the subsidiaries consolidated in group accounts, and interests in unconsolidated subsidiaries.

<sup>63</sup> ICADE, *Consolidated Financial Statements, 31 December 2020*, <https://www.icafe.fr/en/finance/regulated-information/icafe-s-consolidated-financial-statements-2020.pdf>. ICADE has €12.8 billion in assets compared to ORPEA's €16.9 billion, and indeed a larger property portfolio than ORPEA.





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