



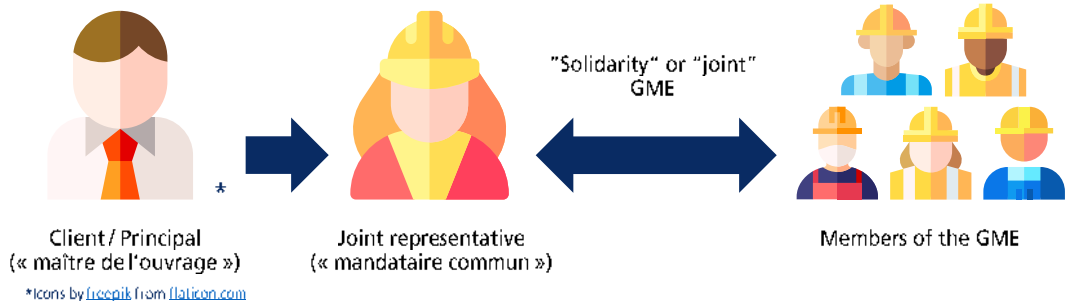
BMH AVOCATS

LEGAL TOOLBOX #2 TEMPORARY COMPANY GROUPING IN FRANCE (GME)

QUESTION

ANSWER

How does a GME setup look like in France?



What is a temporary company grouping or GME?

A GME (*“groupement momentané d’entreprises”*) is a temporary grouping of independent companies with the aim of achieving building works often awarded to the GME through an *“invitation to tender”* (*“appel d’offres”*).

When can a GME be useful?

Construction work of a certain scope may require **pooling substantial human, financial and material resources** which SMEs of the building sector cannot afford.

The GME allows to **share the resources and risks** while entrusting the work guidance to **only one company**.

It often **limits the expenditures of the members of the GME** by adjusting the scope of their work to their very own resources, mutualizing equipment and reducing the need for external funding. Thus, a GME may facilitate the **project for the client/principal** (economies of scale, sound work plan, single point of contact).

Is a GME a legal entity as such?

A GME **does not have any legal personality**. Its establishment and functioning solely rely on a contract whose content can be more or less comprehensive and complicated. This contract cannot be relied on against **third parties**.

Are there different types of GMEs?

Yes, there is the **“solidarity” GME** (*“groupement solidaire”*), in which every member bears **liability for the achievement of the work of the other members**, and the **“joint” GME** (*“groupement conjoint”*), where every member is responsible for the achievement of its own work.



Who represents the GME?

Yes, the “joint representative” (“*mandataire commun*”) plays a key role. He/she shall at least represent all the members of the GME towards the client/principal during the preparation and the award of the tender.

The “joint representative” can have very broad obligations (to be defined by the members of the GME) such as court representation, proposal of a successor in case of a member’s bankruptcy, organization of the construction site, acceptance of works, payment management, etc. He/she may also be designated to coordinate the implementation of the work by the GME’s members.

When should the GME be created?

A GME should better be constituted before the “procuring entity” (“*pouvoir adjudicateur*”) allocates work, as it requires in-common affinities and a willingness to achieve work together. The establishment of a GME after the allocation of work often creates a risk as the “bond of trust” can be missing.

What are the other points to focus on when creating a GME?

It is essential to clearly state the type of GME (“solidarity” or “joint”). In case of doubt (e.g., if respective work is not clearly allotted between the members of the GME), “General Conditions of Contract” (for public procurements) or a Court (for private procurements) may qualify the GME as “solidarity”.

Want to learn more?

The respective tasks and obligations must be carefully designed, as the legal and regulatory framework is very limited. Contact us before you get involved in a GME!

About this factsheet

This “Legal toolbox” factsheet was created by a team of BMHAVOCATS lawyers. Find more factsheets from the same series on our website: <http://bmhavocats.com/en/publications-en> under the tab “Legal toolbox”. To contact one of our lawyers, click on their photo below.

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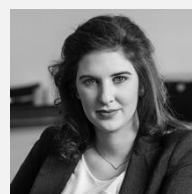
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About BMHAVOCATS

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