



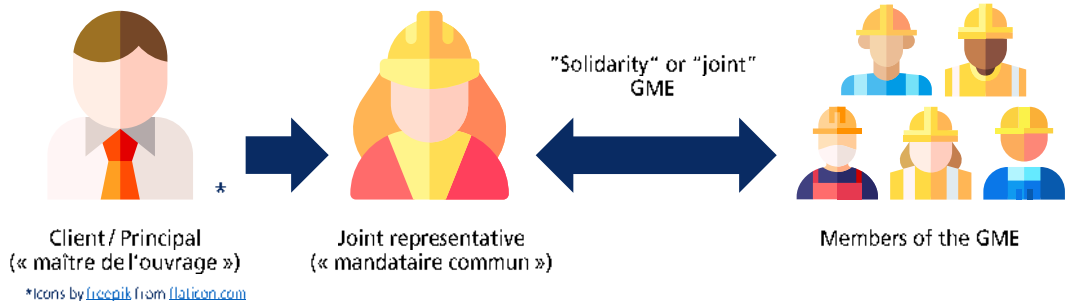
BMHAVOCATS

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.

Our team



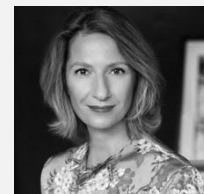
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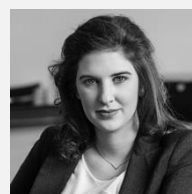
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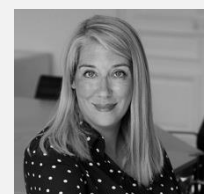
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