

The End of the Old A.K.M. (March 1938), the Foundation of the New AKM (June 1945) and the Consequences

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Executive Summary

The German invaders and their local National Socialist abettors infamously assumed power in Austria during the days between 11 and 13 March 1938. The takeover was smooth; on Saturday March 12, the plan worked out long before “Day X” with incredible meticulousness entered into force, that of bringing all important organisations under control and/or placing them under separate leadership affiliated with the NSDAP [National Socialist German Labour Party – trans. note]. The associations over which the new potentates wanted to gain control particularly quickly included the A.K.M. [Austrian state-authorized performing rights society - trans. note], in the interest of gaining sway over ideational values as well as sizable material ones. Thus the “national culture director” [*Landeskulturleiter*] for Austria, “Pg” [*Parteigenosse*]; party member of NSDAP - trans. note] Hermann Stuppäck – who had evidently already been appointed as a precaution – personally named “Dr. Friedrich Reidinger to the post of commissarial president” of the A.K.M. on 12 March 1938. Othmar Wetchy and Dr. Mauriz Hans Heger were his deputies, Rudolf Tlaschal and Dr. Otto Beran the “executive managing directors”; on 17 March they notified all members and royalty beneficiaries [*Tantiemembezugsberechtigzte*] that “the entire A.K.M. board was relieved of its function by virtue of a ordinance from National Culture Director Undersecretary of State Hermann Stuppäck”, also informing them of the new management.

All of the A.K.M. assets were seized on 17 March; then the new management initially proffered monetary gifts like pension increases in order to placate aggravated tempers. Yet the “new broom” and its effects soon became tangible: in early April, Friedrich Reidinger learned from Berlin that the “600,000 schillings now due may not yet be paid out [...]. But if and when the money should become available, it will only be payable to Aryans.” (In Germany almost all Jews were debarred in 1935/36 from the *Reichsmusikkammer*, initially led by Richard Strauss and then Peter Raabe; as of 1939, German music publishers were obliged to remove works by Jewish authors from their catalogues).

In order to identify “Jewish members” indubitably, the decision was made to “create a *Judenspiegel*“ [list of Jewish members - trans. note] – it is preserved in the Vienna State Library, call no. 91314 A/1937, along with a STAGMA [German state-authorized performing rights society in the 1930s and 1940s - trans. note] stamp dated 10 February 1939. The protocol continues: “Until then, the Messrs. Professor Damisch and Wobisch are to be deemed authoritative sources of information in Jewish issues.” (As is well known, these

“sources of information” became highly honoured personalities after the Second World War ended; Heinrich Damisch, president of the Vienna Mozart Community from 1913 to 1945 and author of a 1938 article on the “Judaization of Austrian Musical Life,” was awarded the Gold Medal of the City of Salzburg in 1956, while Helmut Wobisch was manager of the Vienna Philharmonic from 1954 to 1968 and the founder in 1969 of the Carinthian Summer Festival which he led until 1980 and recipient of the Great Order of Merit for Services to the Republic of Austria in 1967.)

To clarify the Jewish Question, the new leaders drafted a survey requiring the questionees to provide information on their military services, their affiliation with Freemasonry, the Schlaraffia, political parties, “militant formations of the *Systemzeit*“ [roughly, the time of the Austrian “*Ständestaat*” 1934-1938 - trans. note], the “*Heimatschutz* à la Starhemberg” and, in particular, religious affiliation and that of their parents and grandparents; one section was called “Lineage: German blood, congeneric or non-Aryan.”

Very quickly, National Socialist protégés who did not fulfil the applicable admission criteria at all were named ordinary members, among them author Dr. Mauriz Hans Heger on 21 March 1938 and composer Dr. Ernst Geutebrück on 5 June (he had already been named “commissarial administrator” a month earlier, on 5 May 1938). The new members promptly became active “on their own account”, as it were; as early as April, a “subvention system for serious music” was under discussion for composers “who had no performances during the time from 1934-1936 [...] whereby higher authorities dictated that no payments in arrears were to be made to Jewish members”. It was mainly an issue concerning colleagues whose “songs for the movement” [*Lieder der Bewegung*] were not performed during the Austro-fascist years.

At its first meeting on 25 July 1938 (it was the “commemoration day of the national revolt [1934] in Austria”, as it was proudly noted) the commission finally allotted large sums under the chairmanship of Heinrich Strecker (with names such as “redresses” [*Wiedergutmachungen*], “empathy quotas” [*Gesinnungsquoten*] and “imprisonment compensations” [*Haftentschädigungen*]), especially and significantly to functionaries emplaced by the Nazis such as Heinrich Strecker, Mauriz Hans Heger and the new commissarial administrator Ernst Geutebrück. The monies came from the “litigation reserve” which had been “put by” after the Dollfuß government had dissolved and expropriated the Austrian Musicians’ Association (which was largely run by the Social Democrats). Thus the A.K.M. could no longer pay out (contractually assured) monies as of February 1934, whereupon several sub-associations sued – but ultimately the magistrates upheld the implemented expropriations to a high degree. According to a transcript of Dr. Beran, the litigation was terminated by a “third-instance settlement which reduced the A.K.M. payments vis-à-vis those of the former contract with the musicians’ association to a minimum”.

Payment of these “subventions” was not without a certain piquancy; “the many hundreds of Jewish members” were not at all entitled to the monies (as is often alleged) – the social-democratic musicians’ societies were. Therefore, if we wished to describe the distribution of the monies trenchantly, we could say that the Nazi leaders of the A.K.M. gave away monies withhold between 1934 and 1938 from “illegal” social democrats to “illegal” National Socialists between 1933 and 1938.

The members of the A.K.M. were also obliged to “pertinently” substantiate their claims to these “redresses”, as recorded in this way, among others:

“Dr. Geutebrück: SS-*Sturmbannführer* [approx. “major in the SS” - trans. note], sentenced to six years of imprisonment in a dungeon for participation in the July revolt of 1934, is a Blood Order [Nazi medal - trans. note] candidate. [...] Forced to flee to the *Altreich* [i.e. Germany before 1933 - trans. note] in 1936. Profession: attorney at law.

Heinrich Strecker: active resistance to the Judaization of the A.K.M., defamation campaign, interrogations, seizure of battle songs, taken into custody on 1 May 1936, flight to the *Altreich* [...]. Composer of [...] songs for the movement [*Lieder der Bewegung*].”

The questions as to the extent that royalty payments to Jews was permissible were answered by Ernst Geutebrück, the “commissarial administrator” who had gone especially to Berlin for consultation with the offices there:

“With foreigners, whether they live in Germany or abroad, there is no differentiation to be made between Jews and Aryans; therefore, foreigners are to be paid in every case.” The same applied to “second-degree mixed breeds”. It goes on: “Jews and first-degree mixed breeds having German (Austrian) citizenship and living within the country are not to be paid any benefits for the present. [...] Jews and first-degree mixed breeds having German (Austrian) citizenship and living abroad are principally not to be paid any benefits for the present. Payments may be made in special cases, which I will review personally. [...] [They are] to be treated individually and I reserve the right to effect pension payments to Jews, Jewish widows and first-degree mixed breeds. [...] No payments shall be made to foreigners and to Germans abroad if they are emigrants hostile to Germany in their attitude and who engage abroad in acts against the *Reich*. I reserve the right of decision on such matters in individual cases.”

With STAGMA functionaries in attendance, the A.K.M. general meeting took place on 8 June 1938, where (among others) composers Friedrich Bayer, Ernst Geutebrück, Franz Lehár, Lothar Riedinger and Heinrich Strecker, authors Günter Franzke, Otto Emerich Groh, Karl Maria Haslbruner, Mauriz Hans Heger and Ernst Marischka, as well as publishers Alwin Cranz, Ludwig Krenn and Hans Sikorski were elected to the presidium; Geutebrück became president. Strecker ultimately tabled a motion to “request the non-Aryan members to leave the

room with deference to the greeting telegrams to the *Führer* and Dr. Goebbels". Then he read the telegrams aloud after "those members had been removed".

The following events of 1938 are quickly recounted. The "administration of the A.K.M. collection service [*Einhebungsdienst*] passed over to the STAGMA" on 17 June and, on 18 July, the officially responsible, National Socialist "standstill commissar" [*Stillhaltekommissar*] Hoffmann arbitrarily dissolved the A.K.M.. However, Geutebrück was successful in persuading the offices above Hoffmann in particular that the members were "of the standpoint" that "as a consequence of the dissolution, their contracts with the A.K.M. were likewise dissolved"; thus they were "contracting with other countries, entailing possible loss of enormous royalty sums (in foreign currency) for the state". At all events, the dissolution was initially revoked and a general meeting was convened for 23 August, attended by "Herrn Leo Ritter as director of STAGMA" along with high-ranking National Socialists. Geutebrück declared at the meeting that "the A.K.M. should now segue into STAGMA" and Ritter stressed that *Reichsminister* Dr. Josef Goebbels appointed the honorary A.K.M. president "Master Franz Lehár, the greatest German, indeed the greatest living composer of popular music to STAGMA's advisory board" for that reason. Lehár "accepted the appointment".

After that, resolutions were passed on amending the statutes, which legally assured the A.K.M.'s absorption by STAGMA – and, keenly feeling the political pressure, finally "the liquidation and the incorporation of the largest portion of the former A.K.M. members into STAGMA" was resolved. It was not mentioned that there was no other choice and that the "smaller portion" of the former A.K.M. members who were not "incorporated" into STAGMA were mainly the Jews, most of whom had been disenfranchised in the meanwhile. In consequence, many of them resigned voluntarily or did not apply for admittance to STAGMA. However, STAGMA did pay outstanding monies to the Jewish members of the (former) A.K.M. when the sums were demanded vehemently enough, although if the members had already been able to flee abroad, monies were "offset" with "*Reich* flight tax" [*Reichsfluchtsteuer*].

Effective 1 October 1938 "the entire bookkeeping of the A.K.M. i.L. [in liquidation] was transferred to Berlin and dealt with there"; three days later, on 4 October, the A.K.M. was deleted from the Commercial Register. The two buildings which had belonged to the A.K.M. (its head office at Baumannstrasse 8 and the Prückl building [*Prücklhaus*], Stubenring 24/Luegerplatz) were also "annexed" to STAGMA in April 1939. At first it was STAGMA's intention to make "more sums liquid for the remaining assets of A.K.M. i.L." by selling the buildings which, in the case of the *Prücklhaus* sale (for one million Reichsmarks) to Perlmooser Cement Corp., actually occurred on 18 September 1941 – the Nazis retained the office building for themselves as a "STAGMA collecting location" [*STAGMA-Einhebungsstelle*].

New Beginning – 1945

After the war, the AKM functionaries who had been forced to resign in March 1938 at once strove to a new foundation, which then was resolved in a hurriedly convened “constitutive general meeting” on 8 March 1945. The “old A.K.M.” could not be re-established “because the dissolution of the old A.K.M. was legally in force; also, since the Nazis had also adopted certain Austrian laws for the ‘province of Austria’ – and the dissolution had been effectuated according to those laws and was thus statutory”. Bernhard Herzmansky of Doblinger Publishing became the president of the “new AKM” (which was not the legal successor of the “old A.K.M.”); in the extraordinary general meeting on 14 December 1945 he acknowledged “all the members whom the Nazis wrested from us” – more detailed explanations reached from “died in exile” to “died in a concentration camp”. After that he expressed the hope that, “with the assistance of state and international agencies, the monies expropriated by the STAGMA would be recovered” to be used to recreate a welfare fund, among other things. (The Austrian government had established a “public administrator” to “process the affairs of STAGMA in liquidation”.)

Anticipating the hoped-for “assistance”, the first ordinary general meeting resolved on 24 May 1946 that the requisite eight years of uninterrupted membership necessary for recognising “age-quota candidacy” [*“Altersquotenanwartschaft”*] “could be allowed [from] the time of membership in the old A.K.M. active until 1938 [... and] in special cases, from 1938 to 1945, for candidacy”. Thus unabbreviated candidacy was also made possible for those not accepted by STAGMA after 1938 (emigrants, persecuted persons, etc.), as well as the widows and orphans of age-quota candidates, although the monies then committed were de facto deducted from the fees collected for public performances of the “new” members and royalty beneficiaries – a voluntary “redress” for injustices and inhumanities of which the “new” members were not culpable.

The “old A.K.M. vs. new AKM” issue also entailed the failure of the attempts to reclaim the “indemnification sums” paid out by the “commissarial management” of the A.K.M. in summer 1938, since the “new AKM” had no right of access to the assets of the “old A.K.M.”. All the “old” members and royalty beneficiaries were even obliged to (re-)join the “new AKM”. The attempts to regain the “old A.K.M.’s” fund assets, the royalties of Austrian authors which STAGMA had collected until 1945 and the two buildings from GEMA [the German performing rights society following the STAGMA - trans. note] foundered first of all because “due to the occupation [of Germany]” GEMA “was not entitled to conclude contracts”. Moreover, it was no longer possible to clarify fully the question as to the form and amount (if, in some cases, at all) of allowances and disbursements made during the latter months of the war.

However, the hoped-for “state assistance” mentioned above failed to materialise; the attempts to reclaim the “old A.K.M.” assets (which STAGMA appropriated) on the basis of any of the

seven “restoration laws” [“*Rückstellungsgesetze*”] ran aground - none of these applied to this special case. Let it be said in advance that the STAGMA assets, including both buildings, ultimately came under state administration as “German property” and passed over into the ownership of the Austrian Republic after the *Staatsvertrag* [Austrian Independence Treaty - trans. note] of 15 May 1955; the assets were subjected to effortful negotiations before being distributed to the members of the “old A.K.M.” or else perforce had to be “bought back” by the “new AKM” (in the case of the Baumannstrasse building).

A “trustee [*Sachwalter*] of the former A.K.M.” was appointed at an early stage to compile possible claims against the “old A.K.M.”; initially (from February 1950 to October 1951) this was Dr. Fritz Stein, the vice-president of the “new AKM”, followed by president Bernhard Herzmansky (until his death in December 1954) and Dr. Ignaz Brandstetter, the AKM legal advisor (until all issues had been settled).

Herzmansky’s efforts met with partial early success; although the *Prücklhaus* was principally allotted to the “restoration estate ‘old A.K.M.’” [“*Rückstellungsmasse ‘alte A.K.M.’*”] in 1953, it initially passed over per 1 September 1953 to the “trustee’s administration”. Following an objection, the restoration commission [*Rückstellungskommission*] finally ascertained in early 1954 that “the rules of fair transactions were not observed for many reasons during the transfer of the mentioned real property from A.K.M. to STAGMA: the standstill commissar [*Stillhaltekommissar*] ordered the repeal of the society’s legal personality [...] which constitutes a typically National Socialist measure; members of the former board were eliminated by non-members of the society and the A.K.M. as a legal entity received no recompense for the expropriated assets.” Moreover, Perlmooser Corp. was obligated to “release all proceeds from the *Prückl-Haus* from the time of acquisition onwards to the old A.K.M.”. More objections and negotiations followed before this verdict finally entered into force in June 1960. Yet distribution of the monies to the members of the “old A.K.M.” could not begin until October 1963 since some of the prominent members of the society “raised objection to the intended mode of payment in equal portions” because “they had paid in much more than the anticipated amount into the pension fund at that time”.

Similar problems ensued after the Baumannstrasse building was allotted to the “old A.K.M.” in January 1954, although it belonged to the Republic of Austria as “German property” until the issue of “distribution” was settled. In addition, the “issue of refunding the expenses met by the AKM at the time for restoring the original status quo [of the building – trans. note]” was not clarified. Finally, a settlement was struck (effective 3 February 1960) between the “old A.K.M.”, GEMA (“consubstantial with STAGMA”) and the Republic of Austria, the latter represented by the financial procurator: GEMA returned the building to the trustee, paying him a substantial sum “to settle all mutual claims due to the dissolution of the old A.K.M. and the transfer of its assets to STAGMA” and reaching an accord with the (new) AKM on the

distribution of “old” royalties. And ultimately the members of the “old A.K.M.” agreed on the settlement. As a result, the “new AKM” purchased the building from the “old A.K.M.” for 912,000 schillings in February 1962 and the henceforth entire “estate” [totality of assets] – the Prückl building, the Baumannstrasse building, GEMA – was distributed to the members of the “old A.K.M.” in late October 1963.

There were also great problems during the negotiations with the ALACA (American League of Authors and Composers from Austria), an association formed during the war years in New York comprised of Austrian authors, composers and music publishers who also considered themselves members of the A.K.M. and who wanted their interests in STAGMA and the A.K.M. upheld. But the ALACA was not a performing rights society and thus could not collect royalties, for which reason most of its members joined ASCAP [US-American Society of Composers, Authors and Publishers - trans. note]. However, the royalties “accrued for STAGMA abroad in 1938-1946” had been confiscated by the “Alien Property Custodian” (this was also the case in other countries). Although the generous resolution on the “age-quota candidacy” of 24 May 1946 and the solid basis for discussion with various exile associations led to the AKM (as opposed to STAGMA) being admitted in November 1947 “without formalities to the confederation” of international performing rights societies, this did not yet solve the problems.

Some of the foreign collecting societies did not return the monies seized during (or since) the war years to the “old A.K.M.” members and royalty beneficiaries until very late: while the Swedish performing rights society paid out the retained monies to ALACA members as early as summer 1948, the money from the British and Dutch performing rights societies was not received by the “old A.K.M.” trustee until the spring and autumn of 1957 respectively. And with regard to the US-American society, Dr. Brandstetter did not receive written notification that “the return of all assets has been announced” until 25 April 1964. Meanwhile, many ALACA members and numerous legal successors of emigrants had rejoined the AKM – not least so they could benefit from the pension which had already been envisioned back in 1946.