



UvA-DARE (Digital Academic Repository)

Symphonic metamorphoses

Variations on vulnerability: orchestral musicians' employment in times of crisis

Kurzbauer, H.R.

Publication date

2022

[Link to publication](#)

Citation for published version (APA):

Kurzbauer, H. R. (2022). *Symphonic metamorphoses: Variations on vulnerability: orchestral musicians' employment in times of crisis*. [Thesis, fully internal, Universiteit van Amsterdam].

General rights

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations

If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <https://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

PART II SYMPHONIC VARIATIONS: ORCHESTRAL EMPLOYMENT AND THE LAW

10. Requiem for an orchestra: the Netherlands Radio Chamber Philharmonic (Radio Kamer Filharmonie RKF) néé Netherlands Radio Chamber Orchestra (Radio Kamerorkest RKO)

A saga replete with collective angst and personal drama influenced by encroaching vulnerability, this *movement* retells narratives related to the breaking and remaking of the Dutch radio orchestras in the 21st century. From politically motivated budgetary machinations to media politics, from questionable governance to internal strife, this *movement* is motivated by the stories of those who chose or were forced to leave the orchestras and those who were approved to stay and play – their realities and perceptions under the watchful eyes of unions, works councils, and the regulatory mechanisms within Dutch dismissal law. Many stories remain untold at the behest of stakeholders and their valid privacy concerns. Regardless of certain poignant omissions, this *movement* endeavors to let the musicians take the lead. Mediated by political and legal constructs that influenced the MCO reorganization, it is their voice that resounds through these pages. One orchestra in particular, the now defunct RKF is granted a last hurrah.

*“The Cabinet needs to restore sound public finance . . . the credit crisis and the European debt crisis have made it imperative for us to deal with this situation.”*⁸⁰⁰

*“On the first of August 2013, the employment contracts of 174 employees came to an end, either in whole or in part as a result of the reorganization at the Netherlands Broadcasting Music Foundation (MCO).”*⁸⁰¹

*“The process may have been blessed by the stamp of legality, however it never felt right.”*⁸⁰²
*“Our belief is that no arts organization can cut itself to success.”*⁸⁰³

⁸⁰⁰ In Dutch: ‘Vrijheid en verantwoordelijkheid’ Regeerakkoord VVD-CDA (Freedom and Responsibility, VVD-CDA coalition agreement) 20 september 2010, p. 15. In the original Dutch, “Het kabinet wil de overheidsfinanciën weer gezond maken... door de kredietcrisis en de Europese schuldcrisis is het saneren een harde noodzaak.” Available through the archives of the Dutch government: <https://rijksoverheid.archiefweb.eu/#archive>

⁸⁰¹ In the original Dutch: “Als gevolg van de reorganisatie is per 1 augustus 2013 aan de dienstverbanden van 174 medewerkers van de Stichting Muziekcentrum van de Omroep geheel of gedeeltelijk een einde gekomen.” Financieel Jaarverslag 2013 p. 37. Available at: <https://www.omroepmuziek.nl/content/uploads/2019/04/SOM-jaarverslag-2013.pdf>

⁸⁰² Conversations with Cyril Scheepmaker, former bass trombonist, Netherlands Radio Symphony Orchestra; held the same function 2005-2012 in the Netherlands Radio Chamber Philharmonic. Former member MCO Works Council appointed in 2005.

⁸⁰³ Bruce Ridge, former President, International Conference of Symphony Opera Musicians (ICSOM).

The handwriting was on the wall for numerous Dutch artistic endeavors in the post 2007-2008 financial crisis years when massive subsidy cuts led to the ruin of many venerated institutions including the dismantling of prestigious Dutch radio orchestras.⁸⁰⁴ An agreement entitled *Freedom and Responsibility*, reflecting the views of the Dutch political coalition in power, showcased its efficiency in the choice of a mere seven words (in Dutch and/or English) to announce: “the Broadcasting Music Center will be abolished.”⁸⁰⁵ Three major orchestras, (Netherlands Radio Philharmonic Orchestra, further RFO; Netherlands Radio Chamber Philharmonic, further RKF; the Metropole Orchestra), a renowned chorus (Groot Omroepkoor, further GOK) and a prized library were employed by the Broadcasting Center (Muziekcentrum van de Omroep, further MCO). 322 musicians and 70 staff members were slated for redundancy with little regard for the impact on the national and international cultural playing field.⁸⁰⁶

Less than a year later in 2011, the Dutch State Secretary for Culture, Halbe Zijlstra (representing the centrist People’s Party for Freedom and Democracy further, VVD), finalized plans for a €200 million cultural subsidy cut that led to the ‘kaalslag’ or destruction of a sector known worldwide for its extraordinary range of performances and productions.⁸⁰⁷ Commenting on the impact of the 2012-2013 culture cuts at a convocation in the Valhalla of Dutch culture – the Concertgebouw’s Great Hall – Bastiaan Vinkenburg, a senior consultant in the Dutch cultural field, indicated that detrimental effects would increase over time: “compared to 2010, the Ministry of Education, Culture and Science spent a total of 225 million euros less per year on culture. This means a decrease of 24% in 2013 compared to 2010. And the biggest blow is yet to come after the municipalities make further cutbacks.”⁸⁰⁸

⁸⁰⁴ A concise inventory of culture cuts (in Dutch) available at: <https://nos.nl/artikel/251291-bezuinigingen-kunst-en-cultuur-een-overzicht.html>. A detailed report, (in Dutch) Achtergronddocument ‘Bezuiniging op cultuur. Realisatie en effect’ Algemene Rekenkamer 12 February 2015 is available at: https://opmaat.sdu.nl/hulkStatic/SDU/OP/blg-464461/sharp_/ANX/blg-464461.pdf

⁸⁰⁵ In Dutch: ‘Vrijheid en verantwoordelijkheid.’ “Het muziekcentrum voor de omroep wordt afgeschaft.’ ‘Vrijheid en verantwoordelijkheid’ Regeerakkoord VVD-CDA (Freedom and Responsibility, VVD-CDA coalition agreement) 20 september 2010, p. 34. Available through the archives of the Dutch government: <https://rijksoverheid.archiefweb.eu/#archive>

⁸⁰⁶ Ella Broekstra HRM Stichting Omroep Muziek (SOM).

⁸⁰⁷ The term ‘kaalslag’ was trending after the culture cuts were announced, see, Henny de Lange “Het wordt een kaalslag in de kunst” *Trouw* 14 juni 2011. Available at: <https://www.trouw.nl/cultuur-media/het-wordt-een-kaalslag-in-de-kunst-b5dd25c1/>

⁸⁰⁸ The announcement by Mr. Vinkenburg, senior advisor at Berenschot was made on 22 June 2015. In the original Dutch, “De bestedingen van het Ministerie van OCW aan cultuur zijn ten opzichte van 2010 in totaal 225 miljoen euro per jaar minder. Dat betekent een afname van 24% in 2013 ten opzichte van 2010. En de grootste klap komt nog als de gemeentes verder gaan bezuinigen.”

Writing what is a partially personal narrative in the context of a dissertation is complicated as it calls for removing subjectivity to answer to the demands of academic objectivity. It has taken years to be able to approach the subject without letting emotions run away and tarnish the narrative with personal feelings. The 2011-2012 reorganization process triggered by a €200 million media budget cut that brought about the dismantlement of the Netherlands Radio Chamber Philharmonic (originally from 1945-2005, Radio Kamer Orkest (Netherlands Radio Chamber Orchestra, further RKO, post-2005, RKF) left its tracks not only in the lives of the orchestra's former musicians but also in the music world at large. Listeners at home and abroad lamented the RKF's passing. "An orchestra with a unique niche is gone to all of us who faithfully attended those magnificent concerts at the Concertgebouw on Saturday afternoons and Sunday mornings, it feels like a large vacuum will never be filled. This is and always will remain thanks to its many recordings, an orchestra with a real adventurous spirit and a groundbreaking approach to different sorts of repertoire, from historically informed readings of the early classical period to the wildest 21st century premieres."⁸⁰⁹

U.S.-based orchestral insiders interviewed over the past few years assume that subsidized European orchestras are protected from the vicissitudes of financially driven reductions. One musician reacted to the RKF story by drawing legitimate parallels to her orchestra's financial woes back home. "We always thought that you Europeans had it made, that orchestras were not precarious like U.S. orchestras because you have enjoyed such a long history of government support for culture and had no worries about constantly justifying an orchestra's value in order to raise enough money to survive. Over here, we never thought that politics was important to the decision-making that makes or breaks subsidy."⁸¹⁰ A meeting of orchestral managers under the auspices of the prestigious Aspen Institute paid lip-service to this idealized view with frequent repetitions of a dream scenario in which the U.S. would embrace a European approach of state subsidy for culture rather than its precarious reliance on corporate endowment and private philanthropy as a motor to keep culture running.

To present a fuller perspective, this section resounds in a minor key. Following a few general observations concerning radio orchestras, it proceeds to describe dark days in the history of the Dutch radio orchestras during WWII before moving to a closer examination of policy themes underlying the decisions to cut subsidies. Interviews

⁸⁰⁹ The Dutch radio orchestras enjoyed world-wide diffusion from pan-European stations including BBC Radio 3 and stations across the U.S. /Canada and Asia, audiences tuned in to weekly broadcasts for decades. Quote, Edo de Waart 2015.

⁸¹⁰ Conversations with Lucina Horner, violist, Alabama Symphony.

with musicians on both sides of the Atlantic demonstrated that not only U.S.-based musicians but also Dutch musicians were largely unaware of the influence the push/pull of policy agendas and finances have on their sector, forces that feature strongly in the RKF story. The final demise of the RKF is a mere story within a story that touches upon questions of cultural validation and fundamental financial decision-making in the light of substantial subsidy cuts post 2007-2008 financial crisis. For those who might ask ‘what’s law gotta do with it?’ a myriad of issues centering on collective redundancy principles and processes heightened by the employers’ application of dismissal regulations mix with contract interpretation (both individual contracts and collective bargaining contracts, CAOs),⁸¹¹ general governance-related questions and most importantly, the interaction between policy and dismissal affected musicians. This *movement* attempts to amplify these topics.

10.1 Creeping backwards into darkness

Prior to the Second World War, four different broadcasting associations within the Dutch radio system funded and operated their own orchestras. From dance music to mainstream classics, these orchestras answered the needs of an ever-expanding radio audience throughout the 1930s. Following the German occupation of the Netherlands in 1940, the radio orchestras were consolidated under the Rijkswaard De Nederlandsche Omroep under the watchful eye of the Germans.⁸¹² Disturbingly, reports emphasized the positive economic impact of occupation with regard to cultural workers: “during the war the organization of musical life went on smoothly... “[the] German occupiers tripled our salary after setting up their Kulturkammer.”⁸¹³ A paucity of reports make mention of the demise of numerous Jewish colleague-musicians “who played in our orchestras and were required to wear a yellow star.”⁸¹⁴ Not only their livelihoods, but their lives, were endangered.⁸¹⁵

Decades later, Ben Janssen, former MCO General Director (the umbrella organization that managed the radio orchestras) remarked: “our orchestras were preceded by musical organizations with a tainted history, something we never really have come to terms with. The Germans used the radio orchestras for entertainment and propaganda,

⁸¹¹ Collective bargaining agreements are referred to as *collectieve arbeidsovereenkomsten* (CAOs) in Dutch. See, *FAQs* for more.

⁸¹² P. Micheels. *Muziek in de schaduw van het Derde Rijk: de Nederlandse symfonieorkesten 1933-1945*. 1993.

⁸¹³ *Ibid.*,

⁸¹⁴ *Ibid.*,

⁸¹⁵ Fewer than 10% of the Jewish community members in Hilversum survived the Holocaust, information concerning the fate of radio orchestra musicians can be extrapolated from lists of names and numbers of deported Jews during the dark years 1942-1944. See, <https://jck.nl/en/page/hilversum>

to make sure our citizens were amused. During the war, the mayor of Hilversum was a notorious Nazi-sympathizer, you can imagine what that meant. The horrors of what happened to so many musicians simply because they were Jewish is a subject of shame and blame that we have not dealt with to this day. These days, we talk about equality and how to interpret history, however we have not dealt with the terrible inequality that is part of our history.”⁸¹⁶ A former general manager of the RKO, Ferdinand Vrijma,⁸¹⁷ similarly linked past injustice to radio orchestral history in the present tense. “There is not a single Dutch musical organization that stood up to recognize what happened to Jewish musicians during the war. This speaks of a lack of solidarity and a blind spot that could relate to how we regard our colleagues in general. We are each other’s best friends when the sun shines. In times of trouble, it’s each man for himself, something that troubles me personally and of course professionally.”⁸¹⁸ Although it might be confrontational at best and shocking at worst to draw a comparison between the disproportionate treatment of certain musicians during the dark days of occupation to the personnel reductions that destroyed an orchestra in 2013, it is the musicians themselves who brought forth this comparison to accentuate their vulnerability time and time again. “A terrible feeling of who was permitted to stay in the orchestra and who was forced out, all the lists of yes, no and that awful, interminable even weekly selection process made us apprehensive and uneasy. It was as if we were experiencing a surreal war situation in which those who were chosen were safe and the others were abandoned.”⁸¹⁹

10.2 Dutch radio orchestras in the post-WWII era

*“Once upon a time in the Netherlands, seventeen orchestras graced the cultural firmament. How the mighty have fallen.”*⁸²⁰

*“Their level of performance is high. . . many Dutch orchestras are members of the champion’s league of orchestras.”*⁸²¹

⁸¹⁶ Conversations with Ben Janssen, 2007. Ben Janssen was director of the MCO from 1988-2004 and stepped down without prior notice after the crippling cuts were announced that led to the dismantlement of the Netherlands Radio Symphony Orchestra (NRSO).

⁸¹⁷ Ferdinand Vrijma, violist, and manager RKF until his untimely passing in 1996.

⁸¹⁸ Ibid.,

⁸¹⁹ Conversations with former RFO first violinist Peter Wiemar, orchestra member until the 2012-2013 reorganization.

⁸²⁰ Conversations with Hans Vonk, the great Dutch maestro, former Music Director Staatskapelle Dresden, who served as the last music director of the Netherlands Radio Symphony Orchestra (NRSO) before their reorganization in 2005. Maestro Vonk was revered in the U.S. where he served as Music Director of the St. Louis Symphony.

⁸²¹ In Dutch: “Het spelniveau is hoog. Vele Nederlandse orkesten doen mee in de eredivisie van de internationale orkesten.” Ronald Plasterk “Letter to the Council for Culture concerning Dutch orchestras” in Dutch, ‘Advies over het orkestenbestel aan het Raad voor Cultuur’ 23 april 2009. The response from the Council for Culture was received on 18 februari 2010, p. 1. (author’s translation)

In the 1980s, seventeen orchestras were subsidized under the Dutch national cultural support system, known by its acronym BIS.⁸²² By the beginning of 2001, twelve orchestras remained within the system: ten orchestras in the four-year BIS cycle and the radio orchestras financed through a separate media budget. Two reasons have been put forward to account for what insiders called “trouble in paradise”⁸²³ for the radio orchestras: 1) the Netherlands Radio Symphony Orchestra’s (NRSO) woes pre- 2008, and 2) the Netherlands Radio Kamer Orkest (RKO) reorganized as the Netherlands Radio Chamber Philharmonic in 2005 (RKF) prior to its eradication in 2012. By 2010, the MCO consisted of two symphony orchestras, the RFO (122 musicians) and the re-formed RKF (the Netherlands Radio Chamber Philharmonic consisting of 67 musicians). In addition, a large chorus, the Groot Omroepkoor and the Metropole Orchestra, Europe’s leading light music orchestra, fell under the aegis of the MCO with its mandate to produce both live and recorded performances. The radio orchestras and chorus were the mainstays of the Concertgebouw Hall’s Saturday Matinee series initiated in 1961.⁸²⁴ In 1994, the radio orchestras profiled a Sunday morning one-hour late morning concert series that became the most popular of all series at the Concertgebouw Hall.⁸²⁵ A Friday night series at the Vredenburg in Utrecht filled the gap left behind after the municipal orchestra (Utrecht Symphony) was disbanded in 1985. As the *movement* unfolds, we will discover that popularity and success could not guarantee longevity for the radio orchestras.⁸²⁶

10.3 Questioning legitimacy: is a radio orchestra unique? does it deserve preservation?

Radio orchestras have long had a particular identity both sonically and creatively. The ever-present microphone that signals that an ensemble is ‘ready to record’ inspires “a quickness of attack, a flexibility and a penchant for learning quickly.”⁸²⁷ In terms

⁸²² For more information on the Dutch cultural basic infrastructure (BIS), see FAQs.

⁸²³ Citing Hein Glaubitz, former manager Netherlands Radio Philharmonic Orchestra and the Netherlands Radio Chamber Orchestra, 2006-2008.

⁸²⁴ The Saturday Matinee (Matinee op de Vrije Zaterdag) series, known as the Vara Matinee, was subsidized by the VARA broadcasting foundation from 1961- 2002. The RFO and RKF presented an astounding number of world premieres, operas and programs that achieved international acclaim for quality and originality. The Saturday series continued with other broadcasting sponsors, the RFO is the sole radio orchestra featured in the Saturday NTR series since 2013.

⁸²⁵ Het Zondag Ochtend Concert series (Sunday Morning Concerts) offered one-hour programs broadcast live from the Concertgebouw’s Main Hall. These concerts were ‘instant sell outs.’

⁸²⁶ An inventory of concert reviews in national newspapers (*NRC Handelsblad*, *Volkskrant*, *Trouw*, *Telegraaf*) and the international press corroborates both the quality and innovation associated with the abovementioned series presented by the Dutch radio orchestras.

⁸²⁷ Conversations with Edo de Waart, former Music Director, Netherlands Radio Philharmonic Orchestra (RFO) 1989-2004; Conductor laureate, RFO. Maestro de Waart has been the Music Director of a record number of orchestras in the Netherlands, and abroad.

of repertoire, radio orchestras traditionally are responsible to present national musical treasures and other lesser-known works from the repertoire. Significantly, radio orchestras perform a considerable amount of contemporary music, including commissions and premieres of new works. Evidence of the contribution of Dutch radio orchestras in terms of disseminating contemporary as well as overlooked repertoire of the past is documented in program books and V.F. Schouten's meticulous research project listing a wealth of orchestral performances and recordings.⁸²⁸ As we soon will discover in the case of the ever-diminishing Dutch radio orchestras, proposals to shift specific radio orchestra responsibilities to regional and municipal orchestras have chipped away at the radio orchestras' identities since the 1950s.

In a markedly direct challenge to the *raison d'être* of the radio orchestras, Ronald Plasterk, State Secretary for Culture, Science and Education (2007-2010) noted in a letter to Parliament to justify his decision to approve of major radio orchestra cuts: "The broadcasting orchestras function almost entirely separately from the other ten orchestras. The Netherlands Radio Philharmonic Orchestra (Radio Filharmonisch Orkest, further RFO) in particular has in recent years increasingly entered the playing field of the 'ordinary' orchestra as it goes on tours, organizes educational projects in the region and plays standard repertoire even in its CD releases. This raises the question of whether a separate position of the broadcasting orchestras is still legitimate."⁸²⁹

10.3.1 More legitimacy questions: a definable link to a specific audience

A debate as to whether radio orchestras are a necessity within the total spectrum of Dutch orchestras is another factor that contributed to the demise of the radio orchestra system. Certainly not just a feature of austerity-related discussions in recent years, the question as to why a radio orchestra should exist found its place in both political and broadcasting-finance circles since the 1960s. Each time austerity was on the horizon for the Dutch radio orchestras, politicians keen to support subsidy-related decisions queried: do radio orchestras have a specific audience? As the very appellation 'radio orchestra' implies these ensembles broadcast to an intangible audience of listeners who are unseen, unknown. These leads to the suggestion that if cutbacks due to diminished funds are the order of the day – "one radio orchestra less is certainly no disaster"⁸³⁰ – a

⁸²⁸ In Dutch, V. Schouten. "De Orkesten van het MCO: Artistieke selectieprocessen" Masters Thesis University of Utrecht 2010.

⁸²⁹ Ronald Plasterk. 'Letter to the Council for Culture concerning Dutch orchestras' in Dutch. Advies over het orkestenbestel aan het Raad voor Cultuur 23 april 2009. Response from the Council for Culture (RvC) received on 18 februari 2010, p. 9 (author's translation).

⁸³⁰ Conversations with Ben Janssen, quoting a member of the Raad voor Cultuur (Dutch Culture Council).

self-fulfilling prophecy. “A ridiculous premise” countered Edo de Waart,⁸³¹ “Dutch radio orchestras were the mainstay of the most prestigious concert series in the Netherlands, the Saturday Matinees at the Concertgebouw that brought extraordinary, adventurous programs to a large audience with a considerable fan base at home and abroad.”⁸³²

10.3.2 Even more legitimacy issues: unfair competition?

An additional point that relates directly to the so-called false competition between radio orchestras and government-subsidized orchestras was advanced by the director of the Amsterdam-based Netherlands Philharmonic Orchestra (NedPho): “A different form of financing accentuates the competition between some of the top-level state subsidized orchestras and the radio orchestras performing at the major halls because the cost of presenting a radio orchestra is much cheaper than the costs of presenting my orchestra, for example. Quite simply, we have to pay for the use of concert halls in contrast to the radio orchestras where the broadcasters helped defray these substantial costs. Not really fair to the orchestras who have to pay-to-play especially in a financial climate (post-crisis) when budgets are particularly tight.”⁸³³

Tellingly, the changing role of radio orchestras from recording entities to live performance orchestras even found its way into the rhetoric of the MCO in 2010. In retrospect, considering the reexamination of the role of radio orchestras on the part of advisory groups and influential politicians’ intent on implementing austerity measures, this statement, while reflecting the changes in the radio orchestras modus, may have inadvertently added fuel to the fires of those who maintained that the radio orchestras were in fact interchangeable with any number of Dutch orchestras:

*“In the first decades after the war the emphasis was mainly on bringing live music on the radio, whether or not in a specific accompanying role. In the course of the years, the task changed to bringing mainly adventurous and distinctive repertoire to a high level. The history of broadcasting orchestras in the European context shows that the course must be sharply focused on artistic quality linked to the distinctive repertoire mentioned earlier. Only this combination provides added value in a changing world of music and media.”*⁸³⁴

⁸³¹ Conversations with Maestro Edo de Waart.

⁸³² The Saturday Matinee (Matinee op de Vrije Zaterdag) series, known as the Vara Matinee, was subsidized by the VARA broadcasting foundation from 1961 - 2002. The RFO and RKF presented an astounding number of world premieres, operas and programs that achieved international acclaim for quality and originality. The Saturday series continued with other broadcasting sponsors, the RFO is the sole radio orchestra featured in the Saturday NTR series since 2013.

⁸³³ Conversations with Rob Streevelaar, managing director, Netherlands Philharmonic Orchestra.

⁸³⁴ *Meerjaren beleidsplan* Muziekcentrum van de Omroep 2010 p. 10.

Perhaps this conscious move from recording to a combination of recording and live performance was partially responsible for the orchestras' final demise in 2012. "In retrospect, a closer look at the past history of the radio orchestras does teach us that even in their heyday Dutch radio orchestras were never really out of harm's way. Sadly, the better the quality, the greater the threat to some of our subsidized colleague-orchestras once the radio orchestras took center stage in popular concert series at major halls."⁸³⁵

10.4 Broadcasting and broadcasting music: an uneasy alliance

The history of Dutch radio orchestras from their post-WWII resurrection to final cuts and reorganization in 2012-2013 has been turbulent to say the least. Of the five radio orchestras⁸³⁶ that contributed to Dutch broadcasting under the aegis of Dutch broadcasting foundations,⁸³⁷ none of these musical organizations escaped the threats of multiple austerity plans as politicians along with radio bosses attempted to cut and/or divert funds away from the music sector. Part of the larger story on transformations in the broadcasting sector, the saga of the radio orchestras and their eventual dismantlement is weighed down by both external and internal conflicts, from the lack of commitment of politicians to culture, to the broadcasters' zeal to cut corners in their cultural budgets. Uncertainty in terms of the individual radio orchestras' mission coupled with shifting patterns of cultural decision-making at governmental and expert council levels prompted unfortunate competition between radio orchestras as the end was in sight.

Broadcasting issues are of great import in the Netherlands. For those who might dismiss broadcasting imbroglios as a mere storm in a teapot, keep in mind that the downfall of a Dutch cabinet in 1965 was attributed to political conflicts prompted by intense differences of opinion concerning the possibility to grant commercial broadcasters' valuable airtime and issues related to the regulation of advertising.⁸³⁸ In contrast to the weak role of public broadcasting in the U.S., public broadcasting

⁸³⁵ Conversations with Ben Janssen.

⁸³⁶ The original four in 1947: Netherlands Radio Philharmonic Orchestra (RFO); Netherlands Radio Chamber Orchestra (RKF); Omroep Orchestra; *Promenade* Orchestra.

⁸³⁷ Post-occupation and post-war, the radio orchestras were placed under the aegis of the Nederlands Radio Unie (Dutch Radio Union) in 1947. In 1969, the umbrella organization restructured as the Netherlands Broadcasting Foundation (Nederlands Omroep Stichting-NOS).

⁸³⁸ The fall of the Marijnen Cabinet attributed to sharp differences of opinion concerning commercial broadcasting and allocation of airtime, for more, in Dutch, https://www.parlement.com/id/vh8lnhronvwd/kabinet_marijnen_1963_1965

in the Netherlands, like many of its European counterparts,⁸³⁹ has enjoyed a long history as a distinctive institutional form strongly supported by the government. Traditionally, it served as a vehicle to raise public consciousness in the service of political participation and has been a powerful tool to disseminate nationally accepted social values and cherished cultural heritage. Communications policy expert Richard Collins' description is particularly apt when applied to the Dutch system: "public broadcasting operating via publicly owned organizations under monopolistic service agreements offers programming that emphasizes normative, nationally approved themes, including 'high culture.'"⁸⁴⁰ Present-day debates with regard to state support for public broadcasting substantiated by highly critical reports on dubious spending practices show cracks in Dutch Public Broadcasting (Nederlands Publieke Omroep, the NPO). "The NPO's performance is compromised by doubts and divisions within the organisation about what its role should be."⁸⁴¹ The doubts and divisions elaborated upon in the 2019 report were part and parcel of the demise of the radio orchestras under the aegis of Dutch public broadcasting, an organization that was never wholly committed to its musical branch.

10.4.1 Dutch broadcasting regulations: The Broadcasting Act and the Media Act

The predecessor to the Media Act, the Broadcasting Act (Omroepwet 1967)⁸⁴² upheld pillarization policies by granting each broadcasting association the exclusive rights to publish their own program data and gain broadcast time according to a complex membership system.⁸⁴³ "Broadcasters also had their own specific preferences for repertoire, musical genre and choice of artists. Insiders leafing through program books from the past could easily recognize whether a radio orchestra program would have been supported by the Catholic network (KRO) or the free-thinking Protestants service (VPRO)."⁸⁴⁴ By the 1960s, a pillarized approach to cultural-media was superseded by the notion of pluralism and subsidies based on artistic quality (a subjective concept at best); the seeds of a national infrastructure, the cultural basic infrastructure (BIS) were

⁸³⁹ Many other European countries have similar broadcasting experiences in which the television and radio has been imbedded within a national institutional organization.

⁸⁴⁰ Richard Collins "Ises and Oughts: Public Service Broadcasting in Europe" 2003.

⁸⁴¹ "Hilversum in View." Netherlands Court of Audit, 2019. Available at: <https://english.rekenkamer.nl/publications/reports/2019/12/10/hilversum-in-view>

⁸⁴² The Broadcasting Act, *Omroepwet* van 1 maart 1967, Stb. no 176 tot regeling van de omroep en Wet.

⁸⁴³ In-depth information concerning the fascinating move from pillarization to open broadcasting, in Dutch, in an excellent legal-policy related study by N. Boerma, J.J. Cuilenburg, E. Diemer, J.J. Oostenbrink en J. van Putten, *De omroep. Wet en beleid. Een juridisch-politologisch evaluatie van de Omroepwet* 1982.

⁸⁴⁴ Conversations with Roland Kieft, Director, Stichting Omroep Muziek (SOM) Dutch Broadcasting Music Foundation.

sown. By 1988, the pillarized system was mitigated as new broadcasters were given space and commercial licenses on the airwaves.

The Broadcasting Act 1988 established a new cooperative venture. The Facilities departments were separated from the Nederlands Omroep Stichting (Dutch Broadcasting Foundation, further NOS) into a subsidiary, the Nederlands Omroepproductie Bedrijf (Dutch Broadcasting Production Company, NOB). The performing arts division became an independent division of the NOB named the Muziekcentrum van de Omroep (Dutch Broadcasting Music Center, further MCO), which became home base and employer of the radio orchestras, chorus, library, and educational departments. Elco Brinkman, Minister of Welfare, Health and Culture (1982-1989) registered his disapproval of a cost-price system to determine financial appropriation for the MCO's ensembles. Unlike the commercial facilities exploited by the NOB calculated at market prices, the Minister found no such commercial base that would validate the exploitation of the classical music apparatus. "The acceptance of ticket sales as an extra to add to the finances of national orchestras was accepted, however, as part of the public broadcasting system, radio orchestras were viewed differently – to place any additional emphasis on commercial value was seen as going against the grain of entrenched public broadcasting norms."⁸⁴⁵ Without a basis of commercial exploitation, financing broadcasting music, the radio orchestras and chorus, was dependent on the media budget, partially reliant on the income garnered from commercials.⁸⁴⁶ A disconnect between the wishes of the ministry, in this case supportive of the broadcasting orchestras' function, and the broadcasters themselves was evident in those early MCO years. Once funds became scarce post-2007-2008 financial crisis, "conflicts between the MCO management and broadcasters, the MCO management and orchestras, and the orchestras themselves took place."⁸⁴⁷ To better understand the nexus of issues that contribute to orchestral downfall, several features relevant to Dutch culture will be highlighted.

10.5 Dutch cultural policy in a nutshell: of state subsidies, pillarization (verzuiling) and expert advice

To achieve an understanding of the bigger picture within broadcasting, it is helpful to review several important points. A frequently quoted principle attributed to one

⁸⁴⁵ Conversations with Ben Janssen.

⁸⁴⁶ Rapport Rekenkamer. Kamerstuk Tweede Kamer 1985-1986, kamerstuknummer 19465 nummer 2, 308.

⁸⁴⁷ Taken from the pages of the RFO-website, in the original Dutch "die tot conflicten leidden tussen de MCO-directie en omroepen, de MCO-directie en orkesten, en de orkesten onderling." Available at: <https://www.radiofilharmonischorkest.nl/rfo-geschiedenis-2004>

of the founding fathers of the Dutch Republic, Johan Thorbecke (Minister of Internal Affairs, 1862-1865), “that the government may make no judgement with regard to science or the arts,” signals the positive value of detachment on the part of the state within the realm of culture. By the second decade of the 20th century, however, the Dutch government emulated several other European states in taking on the challenge of supporting cultural activities.⁸⁴⁸ Expert panels were established to play a vital role in advising government concerning expenditure since the 1950s,⁸⁴⁹ a phenomenon that this *movement* will examine on hand of the many recommendations put forward concerning the radio orchestras both pre- and post-financial crisis of 2007-2008.

Turning to media policies, it is important briefly to mention the concept of pillarization (in Dutch, *verzuiling*). Simply put, Dutch cultural, political, and social history – and most certainly media history – was deeply affected by a strong division of society based primarily on religious beliefs and social alliances until the early 1970s. The four primary pillars conventionally identified as Catholic, Protestant (divided into a liberal and orthodox variant), Socialist and the neutral or Liberal ‘pillar’ were further augmented by a communist ‘pillar’ in the early 20th century. Each pillar put forward organizations to promote their views and ensure that their members were aligned together in a protected group in every conceivable sphere of activity: education, health care, politics, sports, and trade unions.⁸⁵⁰ From broadcasting to newspapers, media was an all-important cog in a pillarized wheel. Yet, for all its distinctiveness in terms of political or religious stripe, the system generated problems for the performing artists grouped in orchestras and choirs.

As radio orchestras started to expand offerings to enrich the Dutch musical landscape in the 1950s, they were met with concurrent challenges from politicians who questioned the need for their distinctive category within the national orchestral landscape. At first, post-WWII Dutch governments supported radio orchestras with their constructive and well-defined missions to call attention to ‘forgotten’ aspects of overlooked repertoire. Encouraging the radio orchestras to move beyond the constraints of performing solely for broadcasting became the *modus* as the radio orchestras branched out to perform and simultaneously record concerts at major performance venues across the Netherlands.⁸⁵¹

⁸⁴⁸ The Dutch Ministry of Education, Arts and Science (Onderwijs, Kunst, Wetenschap) dates back to 1889.

⁸⁴⁹ Information gleaned from the Raad voor Culture (Dutch Council for Culture) website at: www.Raadvoorcultuur.nl

⁸⁵⁰ For more information on pillarization, see <https://www.parlement.com/id/vh8lnhrpfxub/verzuiling>

⁸⁵¹ The pages of the radio orchestras’ scheduling present evidence concerning the ‘reach’ of orchestral concerts to the major podia in the Netherlands, see for example Radio Kamerorkest, Planning seizoen 1987-2004, Hilversum planburo, in the author’s collection.

10.5.1 Peddlers of influence: ministers and state secretaries

In 1965, the Ministry of Culture, Recreation and Social Work (Cultuur, Recreatie Maatschappelijk Werk (CRM) was established. CRM was reorganized in 1982 as the Ministry of Welfare, Health and Culture (Welzijn, Volksgezondheid en Cultuur, WVC). Twelve years later in 1994, culture was placed within the mandate of the Ministry of Education, Culture and Sciences and Sciences (Onderwijs, Cultuur en Wetenschap, further OCW).

The table below lists the most influential figures in Dutch politics who played decisive roles in radio orchestra history, particularly in recent decades. At the discretion of the government coalition in power, a minister and/or a vice-minister (in Dutch parlance, “state secretary”) are responsible for advancing and delineating cultural policy. Interestingly, the position of state secretary under the Ministry of Education, Culture and Science (Onderwijs, Cultuur, Wetenschap OCW) is not always delegated. The Rutte I coalition 2010-2012 entrusted media affairs to its Minister of Culture Marja van Bijsterveldt with the polemical Halbe Zijlstra deputized at the helm of culture.⁸⁵² The Rutte IV coalition in power since 2017 did not assign a state secretary responsible for the culture portfolio. Generally, ministers/state secretaries seek expert advice from the Raad voor Cultuur (Dutch Council for Culture, further, RvC). The advice is not binding but nonetheless influential as the details that unfold here prove. It is important to note that there is no fundamental difference in mandate or legal position between ministers and state secretaries aside from the fact that the minister is the ultimate arbiter of the budget.

10.5.2 Cultural policy trends apropos Dutch culture: the 1980s-1990s

Several important trends in Dutch cultural policy took hold in the 1980s and have held sway in cultural policies ever since. Previous decades had embraced cultural social welfare policy. The severe economic recession in the late 1970s and early 1980s engendered a reassessment of the Dutch culture for the common good assessment. While culture was still considered to be of great importance, budget cuts were deemed essential; marked changes in the Dutch approach to cultural support stem from this period. Cultural institutions were encouraged to consider commercial ventures in order to decrease their reliance on government subsidies. Concurrently, the concept of a market for culture that takes public demand into consideration grew in importance. A four-year subsidy cycle was put in place in which centralized state subsidies would

⁸⁵² Further discussions of Halbe Zijlstra's (VVD party) well publicized anti-culture stance fill the pages of this *movement*.

MINISTERS AND STATE SECRETARIES INFLUENTIAL TO DECISION-MAKING WITH REGARD TO THE DUTCH RADIO ORCHESTRAS

NAME	POSITION and POLITICAL PARTY	CABINET	DATES	General policy: culture as applied to orchestras
Elco Brinkman	Minister Welfare, Health Culture (WVC); Christian Democratic Appeal (CDA)	Lubbers I, Lubbers II	November 1982 November 1989	Functional decentralization
Aad Nuis	State Secretary, Education, Culture and Science (OCW); Democrats 66 (D66)	Kok I	August 1994 August 1998	Great efficiency operation
Rick van der Ploeg	State Secretary OCW; Labor Party (PvdA)	Kok II	August 1998 July 2002	Diversity; Cultural entrepreneurship
Medy van der Laan	State Secretary OCW; D66	Balkenende II	May 2003 July 2006 (stepped down)	Defends 3% orchestral budget cuts, pleads for extensive repertoire to attract new public
Ronald Plasterk	Minister OCW; PvdA	Balkenende IV	February 2007 February 2011	Excellence, participation, innovation
Marja van Bijsterveldt	State Secretary OCW; CDA	Balkenende IV	February 2007 October 2010	
Marja van Bijsterveldt	Minister OCW; CDA	Rutte I	October 2010 November 2012	The ups and downs of MCO cuts: first MCO partially saved, then cuts
Halbe Zijlstra	State Secretary OCW; Peoples' Party for Freedom and Democracy (VVD)	Rutte I	October 2010 November 2012	Culture must earn its own way, cut subsidies, government hands-off policy
Jet Bussemaker	Minister OCW; PvdA	Rutte II	November 2012 October 2017	Entrepreneurship, orchestras earn own way
Ingrid van Engelshoven	Minister OCW; D66	Rutte III-	October 2017	Incorporates Fair Practice into subsidy requirements Very limited extra funds for sector in financial crisis

be granted following the advice of a council of experts, the Raad voor Cultuur (Dutch Council for Culture, further, RvC). The RvC's advice presented to the Ministry of Education, Culture and Science (OCW) became an important determining factor in allotting subsidies. Municipalities and provinces were called upon to contribute their fair share to maintain regional cultural hubs, indicating an eventual decentralization of state subsidies. This function garnered the particularly strong support of Minister Brinkman who looked favorably on not only the pioneering focus of radio orchestral

repertoire but applauded the radio orchestra's promotion of a forgotten cultural canon of enhanced national value (paraphrased from Minister Brinkman's speeches).⁸⁵³ Policy lines set forth by Brinkman were adopted by subsequent ministers representing a wide cross-section of political parties, including Aad Nuis (representing D66, the Dutch progressive liberal party) and Rick van der Ploeg (representing the Social Democrats, the PvdA).⁸⁵⁴ On more than one occasion, Minister Brinkman sharply criticized the RvC's subsidy recommendations labelling their choices as "elitist, aloof, and one-sided (or "unilaterally biased," author's translation)."⁸⁵⁵ Efficiency has been a constant in the rhetoric and actions taken by politicians and policy advisors with regard to all cultural organizations. One of the secondary results of the Great Efficiency Operation 1990 (Grote Efficiency Operatie)⁸⁵⁶ as articulated by Aad Nuis, State Secretary of Culture, Education and Science (OCW) was to encourage the RvC to align its subsidy-related decision-making to embrace political aims. If austerity was called for in other areas of national expenditure, culture was certain to take a 'lion's share'⁸⁵⁷ of the burden.⁸⁵⁸

10.5.3 A nexus of cultural policy decision makers

"Before the hatchet, the kaasschaaf and the large assortment of austerity measures were applied in 2012, experts in the form of consultative bodies were hired to give advice on how to apply austerity measures to cultural organizations. Here at the orchestra, when we saw them (in this case the Berenschot 'men in suits') enter our rehearsal space to spend a few minutes watching us, we couldn't help but think, quoting Judy Collins, they 'sent in the clowns.' Clowns on a mission. Their world of efficiency and management-speak had little to do with music, performance, art."⁸⁵⁹

While ministers/state secretaries hold the power to change policy directions, it is the Second Chamber of Parliament (Tweede Kamer) who puts the final stamp of approval on cultural policy and supervises its implementation. The Specific Cultural Policy Act

⁸⁵³ For a theoretical, comparative look at pillarization that reviews many previous authors, see S. Helleman "Pillarization ('Verzuiling') On Organized 'Self-Contained Worlds' in the Modern World" 2020 pp. 124–147.

⁸⁵⁴ In Dutch. R. Pots. *Cultuur, koningen en democraten. Overheid en cultuur in Nederland* 2000 pp. 329–332.

⁸⁵⁵ Taken from a speech given by Elco Brinkman *Afscheid van de Raad voor de Kunst*, 19 december 1995. In the original Dutch, "elitair, afstandelijk en eenzijdig."

⁸⁵⁶ The operation known as the Great Efficiency Operation (in English) greater efficiency in state apparatus. <https://kennisopenbaarbestuur.nl/Tentoonstellingen/1990-1994GroteEfficiency.html>

⁸⁵⁷ As observed by Frans Brügger, founder Orkest van de Achttiende Eeuw, former principal conductor, Netherlands Radio Chamber Orchestra until its dissolution in 2005.

⁸⁵⁸ State Secretary for Education, Culture and Science Aad Nuis' documents sent to the Dutch Council for Culture (Raad voor Cultuur). No mention is made of decision-making according to artistic value or quality but rather the accent is placed on a link between the Council's advice and relevant policy decisions. In Dutch. *Adviesaanvragen cultuurnota 1997-2000 and Pantser of ruggengraat: Uitgangspunten voor cultuurbeleid, Handelingen* 11, 1994-1995, 24247, nr. 1, 9.

⁸⁵⁹ Conversations with Peter Wiemar, former first violinist RFO.

1993 created the obligation for the government to delegate the preparation of cultural policy memoranda to the ministries with a mandate to enumerate subsidies in four-year cycles.⁸⁶⁰ Prior to 2004, cultural memoranda were submitted together with the national budget in order to guarantee conformity between cultural expenditures and general budget considerations presented publicly on Prinsjesdag (Prince's Day), the third Tuesday in September. In an amendment proposed to the Second Chamber in 2004, rather provocatively titled, 'Making a Difference: A Recalibration of cultural issues,' submitted by State Secretary Medy van der Laan, several changes to the Act were put forward.⁸⁶¹

Additional amendments that embraced the Van der Laan proposals were approved of in 2007, including inter alia: a retraction of the obligation for the ministry to provide a subsidy policy memorandum on a four-year basis and the possibility for a limited number of cultural organizations to receive direct subsidies.⁸⁶² Both of these amendments are relevant to the story of the dismantlement of the radio orchestras. During the radio orchestra reorganizations 2005-2012 affecting the NRSO and the RKO-RKF these memoranda were discretionary. Explanatory Memoranda shed light on the wide reach of the Act and its overlap with specific reference to cultural funding found in the Mediawet (Media Act). Turning to the radio orchestras, subdivisions of the broadcasting authority subsidized under the Media Act, it is important to reiterate that the Specific Policy Act related to both the provision of a statutory basis for subsidies as well as to a provision of specific benefits.⁸⁶³

10.5.4 A Council of Culture or a Council for Culture: the role of the Raad voor Cultuur (RvC)⁸⁶⁴

Formed in 1996, after mergers between several arts' advisory organs, the Dutch

⁸⁶⁰ *Wet op het specifiek cultuurbeleid* (Specific Cultural Policy Act) Available in Dutch at: <https://wetten.overheid.nl/DCCBR0005904/2016-07-01>

⁸⁶¹ In Dutch, Medy van der Laan, 'Verschil maken. Herijking cultuurnotasytematiek,' aan de Tweede Kamer aangeboden, met daarin de contouren voorde nieuwe cultuurnotasytematiek (Kamerstukken II 2004/05, 28 989, nr.22)

⁸⁶² In Dutch, Kamerstukken II 2004/05, 28 989, nr.22, 11 juli 2007.

⁸⁶³ In the original Dutch: "Elk van deze wettelijke regelingen kent een aantal bepalingen over de bekostiging van de betrokken voorzieningen. Deze systematiek komt ook in de considerans tot uitdrukking in de zinsneden en ander voor zover niet is geschied.' Die zinsnede heeft dus betrekking op zowel het verschaffen van een wettelijke basis als het regelen van het verstrekken van specifieke uitkeringen. Het is evenwel niet zo dat de reikwijdte van dit wetsvoorstel zich in het geheel niet uitstrekt over de in die andere wetten geregelde onderwerpen. Met name in de cultuurnota zullen die onderwerpen wel degelijk aan de orde komen." Kamerstukken II 1988/89, 20 987, nr. 3 p. 6 (MvT).

⁸⁶⁴ The play on words is intentional and reflects the oft-posed question as to whether the RvC acted in such a way as to deserve the title, Council for Culture. Hans Hierck and many other pundits have suggested the contrary.

national cultural advisory board (RvC) is the principal legal advisory body to the government and parliament in the field of arts, culture, and media. Readers will soon discern that the RvC's advice vacillated from support to so-called objective distance and silence during different periods of radio orchestra crisis. The Hierck Commission,⁸⁶⁵ whose findings formed a point of departure for orchestral issues for over almost two decades along with two teams of experts, McKinsey and Berenschot, was paramount in forming the decision-making processes that eventually buttressed reorganization and breakup of these orchestras. The interplay of advice provided by external experts and the final measures taken at the ministry level highlights the significant amount of influence experts wielded. A 2003 report commissioned by the Dutch parliament to investigate the possibility of austerity measures prepared by McKinsey bluntly recommended: "cutting two to three radio orchestras" in order to effectuate a savings of €12-16 million.⁸⁶⁶ Their rationale with regard to the orchestras was based on a questionable premise: the Netherlands was a small country with a large number of orchestras, and therefore the loss of several ensembles regardless of their quality or distinctive position was justifiable. "A sort of distasteful competition between radio and non-radio orchestras in which the idea that a regional orchestra could 'move in and take over' the unique repertoire-rich territory of radio orchestras began to be accepted based on reports that were more based on efficiency than artistic output."⁸⁶⁷

10.6 Destruction of the Netherlands Radio Symphony Orchestra (NRSO)

Prior to the cuts that destroyed the Netherlands Radio Chamber Philharmonic (RKF) in 2013, a 55% personnel reduction at the Netherlands Broadcasting Music Centre (MCO) led to the destruction of the distinguished Netherlands Radio Symphony Orchestra (NRSO) in 2005. The NRSO was, to quote one of its fine musicians, 'partially submerged'⁸⁶⁸ into a new orchestral entity, the Netherlands Radio Chamber

⁸⁶⁵ Headed by Hans Hierck, former director of the Arnhem Philharmonic Orchestra and former coordinator of Radio 4, the commission was entrusted to research efficiency recommendations in the orchestral sector in 2001. Its findings impacted future austerity measures that affected Dutch orchestras.

⁸⁶⁶ In Dutch. *Efficiëncymaatregelen bij de publieke omroep*, McKinsey report commissioned by the Ministry of Education, Culture and Science, 26 June 2003, p. 86. The Ministry's intentions to commission and follow the report's findings can be found here: <https://www.parlementairemonitor.nl/9353000/1/j9vvij5epmj1ey0/vi3aglvq64rs>

⁸⁶⁷ Conversations with Ben Janssen.

⁸⁶⁸ Conversations with former RSO principal cellist, Arturo Muruzabal, who post-dismantlement of the RSO joined the RFO. A superlative and outspoken colleague and works council member, Mr. Muruzabal lost his job during the 2012 cuts.

Philharmonic (RKF, new style). The short-lived NRSO had been formed in 1985 after two other Dutch broadcasting orchestras, the Promenade Orchestra and the Omroep Orchestra were merged. In 2005, a new amalgamated orchestra was formed following the decision to cut the NRSO.

A tale told of external circumstances – budget cuts leading to mergers, reorganizations, and their aftermath – could not be complete without making mention of internal strife. “It’s really a true understatement to underline the fact that there were great differences of opinion between the NPO and us, the subordinate MCO with regard to how do deal with austerity options.”⁸⁶⁹ According to a report prepared by the MCO released through its Long-term Policy Plan 2011-2015⁸⁷⁰ and submitted on the eve of 2012-2013 crippling round of cuts, the McKinsey advice in 2003 led to direct budget cuts of more than 20%.⁸⁷¹

10.6.1 The 2005 radio orchestra cuts: reactions from the press and the politicians

Protests to the proposed 2005 cuts echoed in Dutch media, augmented by vociferous protests from the Hans Hierck and the RvC’s reiterations, underlined the unique contribution of the NSRO to Dutch cultural life. For those who might think that the RKO was relatively unscathed by the cuts that led to the NRSOs discontinuation, “always remember, when one of us (radio orchestras) is threatened, the others are equally under threat.”⁸⁷² Prophetic words as one of the major concert broadcasters suggested that it would be less painful to cut the RKO as this measure would affect a fewer number of employees considering the size of the two orchestras. “The very mention to cut the RKO was a slap in the face, a jolt, a real shock as the TROS (one of the main broadcasters and series supporters) supported the NRSO and threatened to abandon its series and broadcast sponsorship if the NRSO was eradicated. That left just one other option and even back then, the RKF felt the menace of extinction.”⁸⁷³ The RvC weighed in on the side of the RKO citing the orchestra’s ‘clear and differentiated artistic profile’ while turning its back on the NRSO.⁸⁷⁴

⁸⁶⁹ Conversations with Kees Dijk, former Manager of the RKF and RFO during the 2012-2013 reorganization.
⁸⁷⁰ MCO Meerjaren beleidsplan 2011-2015 published on 13 april 2010. In Dutch, available at: http://www.hansvanderwoerd.nl/beleidsplan/MCO_beleidsplan/publiek_files/MCO%20BELEIDSPLAN%202010-2015%20-%2013%20april%202010.pdf

⁸⁷¹ *Ibid.*, p. 25.

⁸⁷² Conversations with Jouke van der Leest, former principal viola RKF.

⁸⁷³ Conversations with Maurits Wijzenbeek, violist RKF; chairman RKF orchestra committee.

⁸⁷⁴ In Dutch, Raad voor Cultuur, Muziekcentrum van de Omroep, “Brief aan Staatssecretaris Medy van der Laan” 22 april 2004, p.7.

Responses from ministers and state secretaries responsible for culture prior to the NRSO cut (2005) showed a slight deviation from the damning requests for drastic reductions provided by external advisors. “Radio orchestras were permitted to muddle along with small cuts here and there, concessions were made with regard to the vital contribution to national culture through broadcasts and performances of repertoire that other national orchestras did not perform. While one of the most original of all the orchestras, the NRSO was sacrificed to the gods of efficiency. In the bitterly contested compromise in which NRSO were divided up between the RKO and the RFO, at least these first-rate musicians could continue to perform in the remaining radio orchestras post-2005.”⁸⁷⁵ Faced by the loss of the NRSO, the MCO and public broadcasters responded with an alternative: integrate the NRSO into the RKO to create a new, flexible chamber philharmonic, a super chamber orchestra. State Secretary Medy van der Laan objected as she calculated that this variant would neither enhance efficiency nor provide enough savings.⁸⁷⁶

Members of the left-wing opposition vehemently opposed the plan, venting frustration at the fact that a mere €7,5 million could save an ensemble whose performances promoted Dutch cultural aims but a majority in the Second Chamber of Dutch Parliament supported the fusion.⁸⁷⁷ Socialist Party chair Jan Marijnissen countered with solid arguments supporting the validity of the NRSO’s *raison d’être* with an enumeration of quality and mission-related characteristics supplemented by the orchestra’s contribution to diversity through its cross-over series at the Vredenburg hall in Utrecht. Prophetically, when we consider the quintessential catch phrase ‘left-wing hobby’ applied to culture in the Netherlands following Halbe Zijlstra’s announcement of crippling cuts in 2010,⁸⁷⁸ Jan Marijnissen presumed that a direct link between an enlightened country and its cultural budget should persuade the Dutch government to increase its cultural budget rather than sink into a pattern of unremitting culture cuts.⁸⁷⁹ “A civilized country spends at least one percent of its national budget on culture. That’s

⁸⁷⁵ Conversations with Hein Glaubitz.

⁸⁷⁶ Medy van der Laan. “Vaststelling van de begrotingsstaat van het Ministerie van Onderwijs, Cultuur en Wetenschap 2004” 14 november 2003.

⁸⁷⁷ In Dutch, Tweede Kamerdebat Publieke Omroep, Debat naar aanleiding van een algemeen overleg op 23 juni 2004 over bezuinigingen 1 juli 2004.

⁸⁷⁸ First introduced as an expression popularized through political parties by the populist PVV and centrist VVD parties that advocated budget cuts in the arts. The slogan gained iconic, buzz word status in 2011, when the former State Secretary of Education, Culture and Science Halbe Zijlstra laid out his plans for the crippling €200 million plus cuts discussed throughout this inquiry.

⁸⁷⁹ In Dutch, Jan Marijnissen “Opdoeken Radio Symfonieorkest grenst aan barbarij” published on the website of the SP, available at www.sp.nl. In the original Dutch, “een beschaafd land besteedt minimaal één procent van de rijksuitgaven aan cultuur. Dat is geen links of rechtsideaal, dat ik een kwestie van beschaving.”

not a left or right ideal, it's a measure of enlightenment.”⁸⁸⁰ State Secretary Medy van der Laan held on to the aforementioned McKinsey line of reasoning in its totality: in her opinion and according to her mandate to cut the broadcasting budget by €5.5-7.5 million, the NRSO had no chance for survival.⁸⁸¹ Labelling the MCO reorganization plans as ‘unworkable,’ MCO director Ben Janssen resigned commenting that the merger between the MCO orchestras would weaken the MCO, eventually to a point of no return.⁸⁸² His proposal supported by cultural celebrities including Maestro Edo de Waart was to merge the splintered classical broadcasting entities into a centralized unit under the aegis of the Dutch classical radio station, Radio 4. “Pardon my language, hell would have frozen before the broadcasting organizations would have given up any of their turf not to speak of their funds. Their ‘pillars’ were still in place; all the broadcasting organizations were trying to maintain their importance, their positions. That eventually would lead to the sacrifice not only of the radio orchestras but also, the dismantlement of the Wereldomroep (Dutch World Service).”⁸⁸³

10.6.2 A new orchestra is constructed: NRSO + RKO = RKF (Radio Kamer Filharmonie)

The NRSO was discontinued in its entirety. The result was a “void both artistically and on the collegial level a significant artistic void. Rehearsals and of course concerts were deep musical experiences in an orchestra filled with so many musical characters such as legendary Russian section leaders (NRSO concertmaster Valentin Zhuk had previously held that position at the Moscow Philharmonic and principal bass Boris Kozlov had previously played in the legendary Leningrad Philharmonic and the Moscow Virtuosi), and great conductors over the years. Irreplaceable.”⁸⁸⁴ Although the artistic consequences for the NRSO were dramatic, the impact on personnel in terms of statistics related to the number of musicians who were dismissed was certainly less dramatic. The decision was taken to offer, or to quote many employees interviewed, ‘force’ early retirement for radio orchestra musicians over the age of 55 in order to make space for the younger colleagues who were soon to lose their jobs at the NRSO.

⁸⁸⁰ Ibid.,

⁸⁸¹ Van der Laan, *supra* at fn. 861 pp. 8-10.

⁸⁸² Quote taken from: “Directeur Ben Janssen van MCO legt functie neer” *NRC Handelsblad* 18 mei 2004. In Dutch “De keuze voor een fusieorkest tast alle ensembles aan, met een onvoldoende sterk MCO als eindresultaat.” Available at: <https://www.nrc.nl/nieuws/2004/05/18/directeur-ben-janssen-van-mco-legt-functie-neer-7686701-a19763>

⁸⁸³ Conversations with Hans Quant, former Director, Music Department, Radio Netherlands Worldwide (Nederland Wereldomroep) 1988-2005.

⁸⁸⁴ Conversations with Cyril Scheepmaker.

The remainder of the NRSOs musicians swelled the ranks of the newly expanded RKO in its Radio Chamber Philharmonic incarnation with a few players filling openings in the RFO. “Sounds like a humane solution to the ‘problem’ of an orchestra, doesn’t it? Well, believe me, for those of us who were faced with forced retirement at 55, this was certainly a drastic move – remember, many musician careers, certainly if you take a look at U.S. orchestras continue on for decades after that age.”⁸⁸⁵

To infuse the newly created Netherlands Radio Chamber Philharmonic (RKF-new style) with confidence following the debilitating period of deconstruction, a celebrity within the classical music world, Jaap van Zweden (former Concertgebouw Orchestra concertmaster and rising star conductor) was chosen as artistic director for the ensemble. “What a big challenge that was – to unify a large group of musicians who really had never played together and who had experienced different musical and performance traditions into the Netherlands Radio Chamber Philharmonic. All of us had to work incredibly hard to make something of what so many outside and even inside the organization thought would be impossible to achieve– to create a unique musical identity and a high-quality ensemble. It was very, very difficult. Especially when I look back on those first rehearsals. However in retrospect, we really succeeded.”⁸⁸⁶ For the musicians, that road to musical success was challenging in many ways. “It was in a sense an exercise in cultural change. The contrast between playing in a large orchestra used to perform large-scale repertoire and the delicacy of a chamber orchestra in which a smaller group of players performs the repertoire is really a significant difference. In the beginning we were mixing two very separate musical cocktails to try and achieve a satisfying blend.”⁸⁸⁷

Despite for excellent musical results, changes in the RKF contract with direct impact on workload were noted by orchestra members. Parttime employees were quick to observe that the new contracts and accompanying work schedules reflected an increase in 8 % in terms of obligations without an increase in remuneration.⁸⁸⁸ The situation was resolved eventually to the satisfaction of management and the disillusionment of employees who were reminded that they should be grateful of their privileged positions as employed musicians in times of financial crisis.

⁸⁸⁵ Conversations with Michael Feves, cellist RFO until 2005; co-author *A Cellists Companion*.

⁸⁸⁶ Conversations with Jaap van Zweden, appointed as Music Director Netherlands Radio Chamber Philharmonic (RKF) in 2005, presently Music Director of the Hong Kong Philharmonic and the New York Philharmonic.

⁸⁸⁷ Conversations with Teije Hylkema, former co-principal cello RKF.

⁸⁸⁸ In Dutch. Letter submitted by the author and RKF first violinist Maria del Mar Escarabajal bringing the increased hours to the fore was submitted to MCO Director Anton Kok on 24 October 2005. See, *Epilogue: Appendix 12*.

10.7 Important points in Dutch radio history from the post-WWII period to the 2012 cuts

Until 1988, the broadcasting orchestras were a division of the Dutch Broadcasting Foundation (Nederlandse Omroep Stichting: NOS). The basis of the broadcasters' autonomy in terms of programming is articulated in Article 10 of the Omroepwet (Broadcasting Act) 1967, later Art. 48, Mediawet (Media Act) 1988. "The institutions granted transmission time shall determine, without prejudice to the form and content of their programs determined by or pursuant to law and shall be wholly responsible for the content of their broadcasts during the allotted transmission time."⁸⁸⁹ Although the broadcasters were granted substantial autonomy, this self-sufficiency did not trickle down to the radio orchestras' artistic productions. From State Secretary Rick van der Ploeg's astute observations in 1999 to the criticism mounted by the Hierck commission more than a decade later, the broadcasting foundation's lack of strong consensus concerning the function of the radio orchestras was an ongoing problem.⁸⁹⁰ "Consider the musical production facilitators, the orchestras at the bottom of the pile in terms of independence as they were controlled and often manipulated by the broadcasting bosses."⁸⁹¹ "Much of this lack of control, was related to the source of radio orchestras finance."⁸⁹² Unlike their state-subsidized colleague orchestras, the radio orchestras were financed through broadcasting subsidies that trickled down from the state's media budget. The radio orchestras are barely mentioned in the Media Act 2008. A mere statement of fact is found in Article 2.142a:

*"The NPO, the RPO (Regional Public Broadcasting), the national and regional public media institutions and the institutions designated by Our Minister for the maintenance and operation of broadcasting orchestras and choirs, of a media archive and of a center of expertise for media education shall organize their administrative organization in accordance with their articles of association and regulations."*⁸⁹³

⁸⁸⁹ Art. 10 Omroepwet in the original Dutch: "Iedere instelling die zendtijd heft verkregen bepaalt, onverminderd het bij of krachtens de wet bepaalde, vorm en inhoud van haar programma en is verantwoordelijk voor hetgeen in haar zendtijd wordt uitgezonden."

⁸⁹⁰ See, State Secretary Rick van der Ploeg's "Cultuur als confrontatie" published by the Ministry of Culture, Science and Education, Den Haag 1999 published by the Ministry of Culture, Science and Education, Den Haag 1999 was referenced by the Tweede Kamer vergaderjaar 2000–2001, 27 432, nr. 30.

Compare to the RvC's "Commissie Hierck Met het oog op de toekomst. Rapport van de adviescommissie Muziek" 2001.

⁸⁹¹ Conversations with Hans Quant.

⁸⁹² Ibid.,

⁸⁹³ Art. 2.142a Mediawet, reads in the original Dutch: "De NPO, de RPO, de landelijke en regionale publieke media-instellingen en de instellingen die door Onze Minister zijn aangewezen voor het in stand houden en exploiteren van omroeporkesten en omroepkoren, van een media-archief en van een expertisecentrum voor media-educatie, richten hun bestuurlijke organisatie zodanig in dat overeenkomstig hun statuten en reglementen." Available at: <https://wetten.overheid.nl/DCCBR0025028/2020-04-01#Hoofdstuk2>

Details concerning the how, what, or why of radio orchestra financing did not find their way into solid legislation backed by political will to fund musical ensembles with an international reputation. “Take a short break to reflect for a moment. We Dutch have had a multiplicity of public broadcasting foundations that represented different religious and political views until the 1960s. The importance of classical music was always a topic of debate. Never forget that the broadcast producers were bundled together under the aegis of different umbrella organizations responsible for radio and television production. Orchestras had almost no control over the important artistic decisions made and controlled by broadcasters. Finances were at the whim of and the goodwill of the broadcasting foundations. The orchestras were trapped in a power struggle that pitted radio bosses against one another and the minute finances got tight, the orchestras were the first to feel the loss.”⁸⁹⁴

*“And finally, one last recommendation: profile yourself as a true Council for Culture with respect to your dealings with a minority government (and its shadow political partner) a government that clearly opts **against** Culture.”*⁸⁹⁵

Cuts and reorganizations are certainly not new in the history of radio orchestras in the Netherlands. In April 2001, Hans Hierck, the coordinator for Radio 4 (the Dutch public broadcasting classical radio station) was commissioned to direct a committee of experts to pass judgment concerning the overall efficiency of Dutch orchestral organizations.⁸⁹⁶ The Hierck commission was urged to consider recommendations made by the RvC that approved of the dissolution of two of the thirteen state-subsidized orchestras, the Noordhollands Philharmonisch Orkest (North Netherlands Philharmonic, further NNP), the Nederlands Kamerorkest (Netherlands Chamber Orchestra, further NKO) as well as the NRSO. In addition, the Commission showed its prowess in applying efficiency models to the broadcasting orchestras, suggesting a personnel reduction of 72 musicians. “The seeds of austerity were sown long before the most drastic of all reorganizations affected the radio orchestras. Can you imagine, 2001 predates the decimation or should I say destruction of the illustrious Netherlands Radio Symphony Orchestra (2005) and already efficiency was equated with the

⁸⁹⁴ Conversation with Hans Vonk.

⁸⁹⁵ Hans Hierck, the chairman of the Hierck Commission in a letter to the Council for Culture, 15 februari 2011. In the original Dutch: “En echt tenslotte, een laatste aanrader: profileer u als een ware Raad voor Cultuur ten opzichte van een minderheidskabinet (en gedoogpartner daarvan) dat overduidelijk **tegen** Cultuur kiest.” (emphasis added by Hans Hierck) Available at: www.opusklassiek.nl

⁸⁹⁶ Sandra Kooke. “Spanning stijgt voor bedreigde orkesten.” *Trouw* 2 februari 2001. In the original Dutch, “Een sombere gelatenheid hangt over de Nederlandse orkesten. In afwachting van het eindrapport van de commissie-Hierck, dat maandag in Den Haag wordt gepresenteerd, beheersen de ergste scenario’s de gedachten van orkestmusici en -directies. Slechts weinigen rekenen erop dat alle orkesten over een jaar nog bestaan.”

ability to cut personnel.”⁸⁹⁷ Professor Rick van der Ploeg, former State Secretary for Culture and Media 1990-2002 championed diversity and modernity in his polemic “Culture as confrontation.”⁸⁹⁸ Soon thereafter, Van der Ploeg traded in his government responsibilities for a position as Professor of Economics at Oxford. He decried that fact that Dutch orchestras “continued to focus mainly on the classical-romantic repertoire. While the orchestras present themselves as guardians of the musical heritage . . . we are still far away from the starting point that ‘a healthy musical life presupposes an important place for contemporary music in the total musical use.’”⁸⁹⁹ Prophetic words or misplaced observations? Had State Secretary Van der Ploeg focused his sharp analysis on the offerings of the NSRO and their colleague-radio orchestras, he would have discovered a brave new world of contemporary compositions in weekly performances and broadcasts.⁹⁰⁰ The RvC stayed clear of confrontation, preferring to rest on its objective stance by not expressing viewpoints in public. “If this silence is golden, then it is tarnishing quickly. If the Council members do not feel the necessity to speak up for cultural organizations, even in the most general terms, it comes as no surprise that politicians follow suit.”⁹⁰¹ And after the NRSO dissolution 2005, as the 2007-2008 financial crisis and the recession that followed impacted the Netherlands, the RvC found itself in “a dark political corner”⁹⁰² in which the very premise of cultural funding was challenged by a government that prided itself on its anti-culture stance.

Important to reiterate that although culture cuts “were almost accepted as a given within the four-year subsidy cycles especially at times of economic crisis,”⁹⁰³ the culture cuts pre-2007-2008 financial crisis were certainly not out of proportion in comparison to austerity measures across all sectors of government spending. According to materials published by the Court of Audits, the 2011 cuts reflected an entirely different norm: both culture and media were slashed by more than 20% whereas other sectors reflected in the total government spending cuts was measured at approximately 10%.⁹⁰⁴

⁸⁹⁷ Conversations with Eri Klas, former Chief Conductor, Netherlands Radio Symphony Orchestra.

⁸⁹⁸ Rick van der Ploeg, “Cultuur als confrontatie” *supra* at fn. 890 published by the Ministry of Culture, Science and Education, Den Haag 1999 was referenced by the Tweede Kamer vergaderjaar 2000–2001 27 432 nr. 30.

⁸⁹⁹ Rick van der Ploeg, *ibid.*, in the original Dutch: “de orkesten bleven zich hoofdzakelijk toeleggen op het klassiek-romantische repertoire. Terwijl de orkesten zich profileren als hoeders van het muzikale erfgoed. . . zijn we nog steeds ver verwijderd van het uitgangspunt dat ‘een gezond muziekleven een belangrijke plaats veronderstelt van de eigentijdse muziek in het totale muziekgebruik,’ p. 9.

⁹⁰⁰ V. Schouten’s master’s thesis provides extensive evidence of contemporary music performances on the part of Dutch radio orchestras, *supra* at fn. 828.

⁹⁰¹ Conversations with Michael Schönwandt, former chief conductor, Netherlands Radio Chamber Philharmonic.

⁹⁰² Conversations with impresario Marco Riaskoff, founder Riaskoff Concert Management and initiator Concertgebouw Master Pianists Series.

⁹⁰³ Conversations with Hein Glaubitz.

⁹⁰⁴ In Dutch. “Bezuiniging op cultuur, Zicht op bezuiniging.” Algemene Rekenkamer Den Haag 2015. Available at: www.rekenkamer.nl/bezuiniging

10.8 Obstacles within the MCO system: governance

An article in a leading Dutch newspaper published in 2009 referred to governance in greater radioland as a fictional concept. The MCO's parent company, NOS, that received hundreds of millions of euros from the government was likened to a fiefdom in which nepotism ruled supreme and integrity and/or control were nonexistent.⁹⁰⁵ In terms of governance, the NOS Board of Trustees was presided over by a chairman and an additional 32 members: one quarter of the members were appointed by the government, one quarter were appointed by cultural organizations with the remaining half appointed by the broadcasting organizations. "Chickens in a very hierarchical coop constantly engaged in finding ways to climb up the ladder at another's expense," according to former MCO General Director Ben Janssen. Remarkably, the MCO did not benefit from an independent board of trustees (Raad van Toezicht, further RvT) until its crisis year 2011.⁹⁰⁶ "Am I too cynical to report that their motto, or perhaps mandate could be summarized as 'stand by and watch the boat sink.'⁹⁰⁷ In an internal communication to MCO employees whose jobs were on the line in 2011, MCO Director Anton Kok (2005-2013) encouraged musicians to opt for solidarity as the best line of defense in troubled times.⁹⁰⁸

10.8.1 More MCO obstacles: an "inconvenient system"⁹⁰⁹

If governance caused frustration, "that was nothing in comparison to the constant friction that was the very personification of artistic life in broadcasting land."⁹¹⁰ A factor that contributed to the demise of the radio orchestras in the Netherlands was the orchestras' lack of independence not only with regard to controlling their finances but also with regard to artistic decision-making.⁹¹¹ The exacting German composer-conductor Hans Zender achieved iconic status as an interpreter of esoteric contemporary music.⁹¹² Feared and respected by his RKO musicians (Maestro Zender was Music Director at the RKO 1987-1990), his criticism of the lack of artistic control

⁹⁰⁵ Taken from, Joep Dohman "Bij ons in Hilversum" *NRC Handelsblad Weekblad*, 13-19 juni 2009. In the original Dutch, "In Hilversum hing een ons-kent-ons sfeer...toezicht was zwak en integriteitsregels ontbraken." Available at: <https://www.nrc.nl/nieuws/2009/06/13/bij-ons-in-hilversum-11740541-a288500>

⁹⁰⁶ Information gleaned from internal communiqués to MCO employees 2011.

⁹⁰⁷ Member works council MCO orchestras, anonymity assured.

⁹⁰⁸ "I encourage everybody to keep together in solidarity" in the original Dutch: "ik roep iedereen op om de saamhorigheid vast te blijven houden." Intern communiqué, 15 februari 2011.

⁹⁰⁹ Quoted by Jan Zekveld, legendary artistic programmer Matinee op de Vrije Zaterdag (Saturday Matinee Concertgebouw Series).

⁹¹⁰ Conversations with Hans Quant.

⁹¹¹ Until 1994, decisions concerning repertoire and performing artists were controlled by broadcasters based on a profile initiated and promulgated by Radio 4 the classical radio station.

⁹¹² Hans Zender was principal conductor of the RKF (1987-1990); the author won her audition for a first violin position in the orchestra in 1987 and can share a wealth of stories concerning rehearsals with Maestro Zender.

at the MCO was forceful. Opining that “nine broadcasters, adds up to quatsch nine times over”⁹¹³ (ed. rubbish), his dissatisfaction in a system in which the music director had little freedom to make important artistic decisions such as the selection of soloists and other guest conductors led to his premature departure in 1990.

Governance issues had been a major bone of contention for years in the crisis-ridden broadcasting orchestra sector. In the early 2000s, MCO Director Ben Janssen reacted to State Secretary for Culture, Education and Science Medy van der Laan’s (2003-2006) obstructive intervention with regard to the NRSOs survival, the RvC, and ultimately the broadcasters’ involvement that bypassed the MCOs management, “An administrative novelty. . . you have not wasted any time in ascertaining the position of the MCO (read, crippling cuts). . . with such friends, who needs enemies?”⁹¹⁴ Dutch unions representing the NRSO and RKF threatened by the €5,5 million cuts proposed by the State Secretary in 2004 registered their bewilderment at the lack of coherence between proposals proffered by various parties (broadcasters, MCO directors) to effectuate the cuts.⁹¹⁵ “Throughout the mainly downs, certainly not ups with regard to radio orchestra financing, the board of trustees was fighting their own internal fights as various politicians (ed. comment, state secretaries and ministers) moved to cut the arts in general, and our orchestras in particular.”⁹¹⁶ This story will remain untold unless certain ‘protected’ personalities speak out.⁹¹⁷

As a Berenschot report observed en route to the final RKF dismantlement, “at the present time, the administrative relations between the MCO and the broadcasters are particularly tense. This is mainly due to the diffuse division of powers and responsibilities between the MCO and the broadcasters. The announced cutbacks have put further pressure on relations.”⁹¹⁸ In separate interviews, MCO director Anton Kok and RKF orchestra manager Kees Dijk alluded to relationships that frustrated

⁹¹³ The author was a witness to the maestro’s rare break with composure to express his indignation during the Holland Festival, June 1990.

⁹¹⁴ The first part of the quote, reprinted in the Dutch newspaper *Volkscrant*, “Kunstenbond valt over brief van Van der Laan” 6 april 2004. In Dutch, “een bestuurlijk novum. . . vast staat dat u geen tijd heeft verloren door zich te vergewissen van het standpunt van de MCO.” Available at <https://www.volkscrant.nl/nieuws-achtergrond/kunstenbond-valt-over-brief-van-van-der-laan-b135acc9/> and the “with such friends’ subsequently added by Ben Janssen in conversation with the author.

⁹¹⁵ *Ibid.*, commentary by FNV Kunstenbond regarding tensions at the NRSO pre-2005 cuts reprinted in the *Volkscrant* article. The quote “zo zout hebben wij het nog niet gegeten” literally ‘we have never experienced so much salt in our food’ refers to the acrimonious relationship between the MCO and State Secretary van der Laan.

⁹¹⁶ Conversation with MCO management team member in retrospect (2017) anonymity assured.

⁹¹⁷ *Ibid.*,

⁹¹⁸ Berenschot, *supra* at fn. 750 p. 9. In the original Dutch: “Op dit moment zijn de bestuurlijke verhoudingen tussen het MCO en de omroepen gespannen. Dit heeft hoofdzakelijk te maken met de diffuse verdeling van bevoegdheden en verantwoordelijkheden tussen MCO en de omroepen. De aangekondigde bezuinigingen hebben de verhoudingen verder onder druk gezet.”

any hopes of concrete support from the governing board of trustees to add to the malaise. To add to the complexity of a negative spiral of complex governance issues, the MCO Works Council (OR) added pressure to a particular aspect of governance not related to the board of trustees that nevertheless exasperated tensions during the long, drawn-out RKF dismantlement process 2012-2013.⁹¹⁹ In late 2011, the MCO OR had reacted positively to the Minister's proposition backed up by RvC advice to appoint an independent MCO RvT (Supervisory Board, or alternatively Board of Trustees). Although enthusiastic with regard to a board of trustees dedicated to the MCO, another factor related to good governance frustrated MCO musicians: they questioned the fact that Monica Damen, director of the GOK (Groot Omroepkoor) chorus, served in tandem with Anton Kok at the top of the MCO's Management team. How could good governance be guaranteed if the director of one the ensembles threatened by impending cuts was a member of the management team responsible to carry out personnel cuts in her ensemble and the orchestras?⁹²⁰ An announcement circulated to MCO employees on the MCO website on 17 October 2011, attempted to dispel any misgivings quoted in relevant part:⁹²¹

"1. With her extensive experience, especially in the previous round of cutbacks, Monica stands for continuity. Monica has an attitude that stands completely above parties. She appears to be very capable of fulfilling her duties and powers for the management and for the Groot Omroepkoor. . . should it ever turn out to be biased, which the Supervisory Board considers highly unlikely, there are enough compensating forces in the form of Anton Kok and the members of the Supervisory Board themselves.

2. The Supervisory Board is of the opinion that the management is functioning well and does not wish to change this at a time when the MCO is facing large and difficult tasks. Reducing the management to a press. . . is not justified.

*The Supervisory Board has its own powers. These are different from those of the management. The management leads the MCO. In case of a serious difference of opinion, the Supervisory Board can be an escalation channel, but it cannot and will not take over the task of the management."*⁹²²

Throughout the long, drawn-out reorganization process, a growing number of MCO orchestral musicians voiced their concern at this perceived conflict of interest. "These doubts never left us at the OR, they just lingered on behind the scenes."⁹²³ Regardless of Ms. Damen's experience and professional qualities, good governance would have mandated a decision to step down from the highest post within the MCO's decision-making hierarchy.

⁹¹⁹ Information gleaned from interviews with MCO Works Council members and from the author's collection of Nieuwsbrieven (newsletters) disseminated via the MCO website throughout the reorganization period.

⁹²⁰ Conversations with member of the MCO works council 2012. Anonymity assured.

⁹²¹ In Dutch. "Bericht Raad van Toezicht" 17 October 2011 circulated on the MCO website.

⁹²² Ibid.,

⁹²³ Conversations with an orchestral representative, member of the MCOs Works Council, anonymity assured.

10.9 Facts and figures: MCO personnel statistics on the eve of the 2012 cuts⁹²⁴

Netherlands Radio Philharmonic Orchestra (RFO)

- 107,3 FTEs, full-time equivalents. FTEs are calculated according to a 100% full-time work week. For example, taking a 38-hour work week as a basis, an employee who is contracted for 0.6 FTEs holds a position (0.6 x 38) of 22.8 hours.

Netherlands Radio Chamber Philharmonic (RKF)

- 63,3 FTEs musicians
- Total staff for the RFO and the RKF = 17,8 FTEs

The Netherlands Radio Chorus (Groot Omroepkoor, GOK)

- 75,7 FTEs musicians
- 5,9 FTEs staff members

Metropole Orchestra

- 46,9 FTEs musicians
- 7,4 FTES staff

Initially, MCO General Manager Anton Kok announced his intention to bring suit against Marja van Bijsterveldt, Minister for Education, Culture and Science (2007-2010), due to inconsistencies in her argumentation and use of questionable statistics to back up her views that made the eventual dismantlement of the radio orchestras inevitable. Trained in nursing, and according to her homepage, strongly committed to the Christian Democratic party (CDA), the resolute minister “did not hide from (literally, run away from) painful cutbacks during the Rutte I cabinet.”⁹²⁵ For many in the cultural sector, Minister Bijsterveldt’s lack of affinity with the sector coupled with the determination to carry out austerity plans to the very best of her abilities added to the frustration of those who thought they could reason with politicians. Her proposal to redirect funds primarily intended for the MCO to the broadcasters who in turn could have greater freedom of choice as to which orchestra would be at their disposal for programming⁹²⁶ was met by dismay on the part of insiders. They feared in-fighting on the part of the broadcasters who had their own tenuous finances to think of.⁹²⁷ In retrospect, one of MCO director Anton Kok’s colleagues observed, “taking on Minister

⁹²⁴ Statistics corroborated by MCO HRM director Ella Broekstra.

⁹²⁵ In Dutch: “Liep tijdens het kabinet Rutte-I niet weg voor pijnlijke bezuinigingen.”

See, https://www.parlement.com/id/vh091adpnt8/j_m_marja_van_bijsterveldt_vliegthart

⁹²⁶ Ibid, p. 5.

⁹²⁷ Conversations with Kees Dijk.

Bijsterveldt would have been child's play compared to taking on the man who followed her as State Secretary in the Rutte I Cabinet, Halbe Zijlstra, and do not forget here in the Netherlands we tend to litigate much less frequently than in the U.S..⁹²⁸

10.10 An attempt to save the radio orchestras: RvC recommends subsidy conversion

In order to safeguard the radio orchestras from far-reaching austerity measures and ensure that the subsidy system was adequately balanced, the RvC recommended that the radio orchestras should be incorporated within the basic subsidy infrastructure (BIS) post NRSO cuts. “The Council sees little difference between the tasks of the RFO/RKF and other Dutch subsidized orchestras principally because the broadcasting orchestras manifest themselves as ‘ordinary’ orchestras who perform concerts in the major municipalities and regions (whether or not linked to recording), undertake educational activities, lend their services to the National Opera and embark upon international tours. Thus, the broadcasting orchestras are inextricably linked to the ten orchestras already in the BIS subsidy structure. The Council therefore considers that they (broadcasting orchestras) should become part of the basic infrastructure based on their complementary and initiating role.”⁹²⁹

10.11 Initial reactions to reorganization: MCO Works Council (OR)

The MCO OR was far from satisfied concerning many issues related to the MCO reorganization. Unhappy with the position of GOK director Monica Damen in the RvT and frustrated by the reduction of personnel in the proposed RFO & GOK formation, the council had difficulties reaching consensus concerning the plans put forward by the MCO. Under the provisions of the Works Council Act (WOR),⁹³⁰ the Works Council (OR) is empowered under Art. 25 WOR to lodge an appeal against the decision at the Enterprise Chamber of the Court of Appeal in Amsterdam in order to ultimately forbid the employer from taking action on a decision that does not respect advice provided by the members of the works council. The MCO's OR underwent a

⁹²⁸ Ibid.,

⁹²⁹ RvT comments cited by State Secretary Ronald Plasterk, “Letter to the Council for Culture concerning Dutch orchestras” in Dutch: “Advies over het orkestenbestel aan het Raad voor Cultuur” 23 april 2009, response from the Council for Culture received on 18 februari 2010, p. 23. (author's translation).

⁹³⁰ The FAQs present detailed information concerning the responsibilities of this co-determinative body. For the Dutch Works Councils Act (*Wet op de ondernemingsraden* [WOR]) 1998 unofficial translation in English, see: <https://www.ser.nl/-/media/ser/downloads/engels/2019/works-councils-act.pdf>. For general information on Dutch works councils, see (in Dutch) <https://www.rijksoverheid.nl/onderwerpen/ondernemingsraad>

highly stressful period in which the push of the inevitable reorganization outweighed the pull to find means to halt the process. In answer to the MCO's request for advice submitted on 27 April 2012, the OR took the bold step to register its reservations with respect to several impending decisions on the part of management while agreeing with the decision to initiate discussions with individual MCO employees concerning their futures as radio orchestra musicians.⁹³¹ "The real understatement here is to say that this was one of our most difficult decisions, the move not to take the action to appeal. We spent an incredible amount of energy and time feeling the pressures of trying to reach consensus; those who supported the appeal were not able to win out in the end."⁹³² The MCO's director and management team applauded the decision on the part of the OR to back away from exercising its powers to appeal contested issues considering the substantial need for pre-reorganization process management.⁹³³ For several members of the MCO's OR, who asked for source protection, the challenges to determine the final numbers crunch (the FTEs allotted for future RFO and GOK members) led to division within the ranks and a general feeling of malaise with regard to cherished colleagues whose musical futures were at stake. In its advice based on sketches for programming in the post-reorganization season and recommendations advanced by Berenschot, the OR brought forward its standpoint concerning the minimum number of future RFO members: 103 FTEs with an extra 3 FTEs for eventual personnel flexibility.⁹³⁴ The Artistic Plan presented by the MCO was set at 94,5 FTEs with an additional 3 FTEs for flexible application.⁹³⁵ "It was not only their insistence on a lower total number of FTEs, but the specific allocation of the complement. In several important areas of musical output, from the number of concertmasters-leaders to the flute and horn sections, we certainly did not see eye to eye with our managers. We felt strongly about unique, non-transferable positions, important to the orchestra, that were slated for annihilation but in the last analysis. We had to balance so many interests and reach a compromise."⁹³⁶

⁹³¹ In the original Dutch: "Op 11 juni jongstleden heeft de OR ons laten weten niet direct positief in te stemmen met alle besluit-voornemens, maar wel akkoord te gaan met het voeren van gesprekken om medewerkers te informeren over hun voorziene individuele situation per 1 augustus 2013." Letter from MCO director Anton Kok, reference PZ 2012481, sent on 2 July 2012 to all MCO musicians.

⁹³² Conversations with Maria del Mar Escarabajal, first violin section member, Radio Philharmonic Orchestra (RFO) formerly, a member of the same section in the now defunct Radio Chamber Philharmonic (RKF). Member MCO Works Council during the 2011-2013 crisis.

⁹³³ Stichting Muziekcentrum van de omroep, jaarverslag 2012, p. 7. Available at: https://www.klassiekmagazine.nl/sites/default/files/jaarverslag_2012.pdf

⁹³⁴ In Dutch, "OR MCO Advies betreffende voorgenomen besluit" d.d. 27 april 2012, 14 juni 2012 p. 15.

⁹³⁵ See *Epilogue: Appendix 13* for the MCO Works Council complement proposal.

⁹³⁶ Further corroborated by the materials in the OR MCO Advies, *ibid.*, pp. 14-25.

10.11.1 Berenschot consultants weigh in: unfair competition between subsidized orchestras and radio orchestras?

On 3 December 2010, Minister Marja van Bijsterveldt announced her intention to investigate whether it would be possible to retain the MCO at least in part, keeping in mind the irreproachable level of its orchestras and the mission they fulfilled in the service of public broadcasting. The prestigious Berenschot consultancy bureau report put forth several arguments to support the preservation of the MCO in its entirety.⁹³⁷ Two points central to the Berenschot contentions:

1. The ongoing and high demand for adventurous, distinctive repertoire from broadcasters
2. The significance of the radio orchestras for the regional Dutch music infrastructure with specific emphasis on the RKF and RFO's popular series in the city of Utrecht. (Utrecht is the fourth largest city in the Netherlands and houses an important concert hall, the Vredenburg. Its resident orchestra, the Utrecht Symphony Orchestra was disbanded in 1985).

Crucially, the Berenschot report pointed out that despite its recommendations to save the MCO in its entirety, only two of the five radio ensembles could be financed if the Minister insisted on a reduction in subsidy, from approximately €30 million to €12-14. million.⁹³⁸

In a worst-case scenario in which only two ensembles could be financed, Berenschot opted for the MCO's sole choral ensemble (the GOK) and a "streamlined version of the RFO and the RKF."⁹³⁹ The Metropole Orchestra would be challenged to take on the role of trailblazing as an independent entity with its income generated through commercial performances and recordings.⁹⁴⁰ "Really King Salomon's worst nightmare: how could you make a decision between one of the world's foremost light music orchestras, a world-famous chamber orchestra and a top-class full-sized orchestra, the Radio Philharmonic? Logical to think that the Metropole would be able to move forward as an independent commercial entity; however where was the logic to destroy a chamber orchestra as there are so few of them on the orchestral scene worldwide?"⁹⁴¹

⁹³⁷ Bart Drenth, Gerard Putman for Berenschot. „Toekomstscenario's voor het Muziekcentrum van de omroep: Keuzes in gezelschappen, programmering en positionering" 2011 p.8.

⁹³⁸ Ibid., p. 27.

⁹³⁹ Ibid., Berenschot report. In Dutch: "Komen we tot de conclusie dat er in ieder geval ruimte zou moeten zijn voor een gezelschap dat in staat is bijzonder werk voor een grote bezetting uit te voeren. Dit kan een afgeslankte combinatie zijn van RFO en RKF" p. 30.

⁹⁴⁰ Ibid., in the original Dutch, the Metropole Orchestra's income would emanate primarily from "bijdragen vanuit de markt"

⁹⁴¹ Conversations with composer, conductor Reinbert de Leeuw, one of the founders of the ASKO/Schönberg Ensemble.

For Berenschot, the tipping point that led to a preference for the RFO was “its size, international stature and high-level productions make it indispensable to Dutch music life and in broadcasting.”⁹⁴²

Minister van Bijsterveldt supported the Berenschot expression of preference wholeheartedly paraphrasing their advice in a letter of the Second Chamber of the Dutch Parliament (Tweede Kamer).⁹⁴³ She took the decision to keep the RFO within the media budget while ‘slowly phase out the RKF.’⁹⁴⁴ Paradoxically, the RFO’s international tours criticized by the RvC in their 2010 recommendations as activities that impinged upon the playing field of other major Dutch orchestras were, in less than a year’s time, a critical factor in the Minister’s decision to save the RFO at the expense of the RKF.⁹⁴⁵

10.12 Curtain falling: Halbe Zijlstra remains steadfast

With the appointment of Halbe Zijlstra to the highest post in the Dutch cultural hierarchy, “we had the sinking suspicion that the show would not go on.”⁹⁴⁶ Ambitious and openly proud of his lack of affinity to the sector, Zijlstra’s first published interview as State Secretary was peppered with such quotes as “[i]f you would opt for a mere 6% cut, the cultural world would try to absorb the cuts within its existing framework. To effectuate change, one ounce is not enough” (author’s translation).⁹⁴⁷ His mission to bring about the most significant cuts in the history of Dutch subsidized culture (€200 million in a four-year period) would be accomplished by applying the ax to the performing arts. Echoing Prime Minister Rutte’s mantra, “the arts have their backs to the audience and an open wallet towards the state,”⁹⁴⁸ and the changes from a state that embraced cultural support to a state that urged the cultural sector to become entrepreneurial, Zijlstra was more than eager to excel in austerity challenges. To by-pass the advice given by the RvC was but a small step in that direction. Where his predecessor Ronald Plasterk had at least paid lip service to the idea that the government bears a responsibility to subsidize culture, Zijlstra was eager to set off in

⁹⁴² Ibid., text in original Dutch: “Voor een budget van maximaal €14 miljoen kunnen hooguit twee gezelschappen (met subsidie) overeind worden gehouden.

⁹⁴³ Marja van Bijsterveldt. “Explanation of the governmental agreements on media.” In Dutch, “Uitwerking regeerakkoord onderdeel media” 2011.

⁹⁴⁴ Ibid.,

⁹⁴⁵ For the RvC’s commentary refer to fn. 923.

⁹⁴⁶ Conversations with Mark Gerrits.

⁹⁴⁷ Thijs Broer, Thijs Niemantsverdriet “Niet Raad voor Cultuur maar publiek moet bepalen wat goede kunst is” *Vrij Nederland*, 12 januari 2011. In the original Dutch, “Als je zou kiezen voor maar zes procent, zal de culturele wereld proberen de bezuinigingen op te vangen binnen de bestaande kaders. Als je écht een omslag wil maken, is een onsje eraf niet genoeg.” Available at: <https://www.vn.nl/halbe-zijlstra-niet-raad-voor-cultuur-maar-publiek-moet-bepalen-wat-goede-kunst-is/>

⁹⁴⁸ Prime Minister Mark Rutte’s quote reprinted at: <http://www.simber.nl/2011/06/dutch-arts-cuts-explained/>

the opposite direction as evidenced by the opening paragraph in his guiding principles on cultural policy: “A healthy cultural sector should be as independent as possible from the government.” (translation by the author)⁹⁴⁹

10.12.1 The MCO submits alternative scenarios

To elaborate on alternatives to the proposed cuts with the 1 May 2011 deadline, the MCO responded with a detailed plan to save the entire organization without downsizing the number of ensembles. Generally, “we proposed the ultimate in efficiency to trim off 20% of the subsidy costs from the government while seeking additional funding from the city of Utrecht to compensate for our cultural contributions to their thriving concert series.”⁹⁵⁰ In its first scenario, the MCO opted to cut FTEs across the board instead of opting to dismantle one of its orchestras. To effectuate these cuts, the MCO would have to give up its home, the location of all activities: its administrative office space, educational hub, rehearsal spaces, and sizeable library. The second scenario, given the title of the ‘proportional reduction’ plan,⁹⁵¹ took as a ‘foreseeable but unacceptable’ point of departure the fact that the cuts would lead to an unsustainable 60% budget cut. In order to maintain the four musical ensembles with some semblance of an acceptable complement of musicians,⁹⁵² the support staff would have to be cut by at least 25% and the library budget would be slashed.⁹⁵³ In anticipation of upcoming debates on the parliamentary level, the MCO’s musical ensembles organized musical protests including a flashmob that brought mambo to the very heart of Amsterdam.

10.12.2 Second Chamber deliberations: chances to save the MCO 2011

In a parliamentary debate concerning the austerity plans for the MCO that took place on 27 June 2011, several members of Dutch opposition parties namely, Jasper van Dijk [Socialist Party], joined by Mariko Peters [Groen Links, the Green Party], and Boris van der Ham [D66, the Liberal Democrats], joined in a motion that supported a subsidy switch: the RKF would take part in the national BIS cultural subsidy structure thereby alleviating the reduced media budget. Representative Mariko Peters vociferously

⁹⁴⁹ Halbe Zijlstra “Meer dan kwaliteit: een nieuwe visie voor cultuurbeleid” (More than Quality: A New Vision of Cultural Policy) *Uitgangspunten cultuurbeleid*. Brief aan de Tweede Kamer, 6 december 2010, p. 1. In Dutch, “Een gezonde cultuursector is zo min mogelijk afhankelijk van de overheid.” Available at: <https://vng.nl/files/vng/vng/Documenten/Extranet/Cultuur/Algemeen%20kunst-%20en%20cultuurbeleid/uitgangspunten-cultuurbeleid%5B1%5D.pdf>

⁹⁵⁰ Conversations with former MCO director Anton Kok.

⁹⁵¹ In Dutch, “proportioneel bezuiniging,” see Anton Kok “MCO toekomst” Intern communiqué 20 april 2011.

⁹⁵² *Ibid.*, the MCO projected between 10-15% cuts with regard to the four musical ensembles.

⁹⁵³ *Ibid.*,

supported the RKF based on its matchless reputation in the international music world. Minister van Bijsterveldt responded by emphasizing the traditional stance that radio orchestras must remain that in the service of the broadcasters and insinuated that there was no room for extra RKF funding through the BIS structure.⁹⁵⁴

10.12.3 Broadcast funding predicaments: “when in doubt, kick an orchestra out”⁹⁵⁵

It did not matter if the institutions changed names, kowtowed to the ministry, or consolidated their operations in the name of efficiency into one organization (Muziekcentrum voor de Omroep [MCO]). The struggle over funding and artistic concerns as the threat of funding cuts not only from the ministry but from the broadcasting bosses was nonstop. By the time the Stichting Omroep Muziek (SOM) was set up in August 2013, the majority of the broadcasting units had run away from classical music. The fate of the radio orchestras hung on a thin thread, tied to publicly supported classical radio station (Radio 4) and the ongoing fight for funds for what the bosses called the real broadcasting, goals far from adventurous music programming. “Once everything linked to classical music became elitist in the minds of politicians, the handwriting on the wall grew larger and larger.”⁹⁵⁶

10.13 For whom the bell tolls I: the RKF whittles down its complement

A decision was taken to pare down the number of sub-principal players eligible for placement in the new orchestral organization. “We felt that these players would have excellent chances to audition and win a place in another orchestra as many were still young and at the top of their careers.”⁹⁵⁷ While several sub-principals found their way to orchestras in Australia, Germany and other Dutch orchestras, several colleagues met with misfortune and never found meaningful musical positions. “And then there was silence, no colleagues, no great concerts, and no chance to continue a career in which I spent decades in my orchestra, leading, playing solos and thriving. What follow-up? My musical path can be described as a dead end. How could our management think

⁹⁵⁴ Report from the debate in Dutch Parliament. Tweede Kamerdebat “Toekomst mediabeleid” verslag 27 juni 2011 uitgegeven op 29 juli 2011. Available at: https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2011Z13129&did=2011D37046

⁹⁵⁵ Gallows humor provided by former RFO cellist, Michael Feves.

⁹⁵⁶ Conversation with Hans Vonk.

⁹⁵⁷ Conversations with Kees Dijk.

that it would be easy to replace a leading position in one orchestra with a parallel position in another orchestra? There are age-limits placed on many auditions and of course, if you are tied to the Netherlands because of family obligations becoming a musician migrant was unthinkable. And don't forget, other orchestras faced cuts and could not absorb extra players."⁹⁵⁸ This observation is particularly cogent as it points to the fact that subsidy cuts at the radio also affected the 'fusieorkesten' (literally, fusion orchestras), the orchestras that were slated to be forcibly merged due to austerity measures. "Less is never more: following the radio cuts, more and more orchestral cuts followed not to speak of ensembles fighting for shrinking subsidies. Every few years another pair of orchestras merges or faces total destruction, and our finest ensembles struggle to survive. Here in the Netherlands, the labor market is shrinking fast for musicians, a fact that has all but destroyed the chance for musicians to make a living, from the formerly employed orchestral musicians to the freelancers."⁹⁵⁹

"For survival's sake, the MCO was forced to trim down the complement of musicians who would be able to continue as employees in the RFO new style. Weeks of consultation preceded the submission of final proposals. The trick was how to make sure the orchestra could actually keep going without cutting too many players. All too often from the employment point of view, the logic of the employers is to go for a small core of contracted musicians with a larger group of freelance musicians to supplement the core. This option is certainly much cheaper for the organization as freelancers do not receive benefits nor are they paid on par with the regularly contracted musicians."⁹⁶⁰ Initially many musicians objected to proposals that would result in a downsized complement. "Logically speaking, if your orchestra always could rely on two harpists and a keyboard player, to pare down those sections was perhaps understandable to outsiders who count heads and FTEs, but not to musicians who operated for years as an orchestral family."⁹⁶¹ Most objections concerned miscommunication and lack of clarity: "I thought I had a job on Monday but by Wednesday, I appeared to have lost my job only to get it back again at the very, very last minute just before the season (2013) started again in late August."⁹⁶²

⁹⁵⁸ Conversations with a former principal string player RKF 2015, anonymity assured.

⁹⁵⁹ Conversations with Reinbert de Leeuw.

⁹⁶⁰ Take note, as of the most recent CAO Freelance Musicians operating under the *Wet Arbeid in Balans*, *Labor Market in Balance Act*) freelancers must be paid on par with their orchestral counterparts, a subject of discussion in the *FAQs* and *movements* devoted to freelancers. Conversations with Martin Kothman.

⁹⁶¹ Conversations with Cyril Scheepmaker.

⁹⁶² Conversations with Julija Hartig, violinist RFO, former first violinist NRSO and RKF. First-hand experience with the two major radio orchestra organizations 2006 and 2012.

10.13.1 For whom the bell tolls II: employment termination

By early April 2013, the MCO was engaged in ‘exit gesprekken,’ the final termination-of-employment meetings with 110 musicians and singers whose employment as proud radio musicians was soon to vanish. “With 14 million left of our €31 million subsidy, we were placed against a terrible wall. No real choices, but to cut personnel from our excellent orchestras first based on ‘vrijwillig vertrek’ (voluntary departure).”⁹⁶³ A decision was taken to dispense with assistant and associate positions in string sections based on the perception that “the players in supportive leading positions should be able to compete for parallel positions in other orchestras. To dispense with the first principal positions such as concertmaster and principal cello for example would have undermined the sections and given off a signal of defeat.”⁹⁶⁴ While several former principal players did find gainful employment in the Netherlands, the premise did not hold for others. Looking back in retrospect, on a person-by-person basis, the former first and second stand string principals in the radio orchestras did not have an easy time of it following the reorganization. Several former colleagues who tried their luck in auditions in foreign climes were successful,⁹⁶⁵ while others returned to the Netherlands several years after searching for work internationally only to face a situation where the amount of work in the classical music sector had dwindled following more rounds of cutbacks post-financial crisis. A number of top-notch colleagues were not even able to gain admission to auditions as orchestras in many countries observe an unwritten rule in which candidates over the age of thirty-two are not invited to take part in the audition process, a hurdle that will be further discussed in *Greener Pastures*.

10.13.2 Post-mortems: musicians’ reactions

Radio orchestra musicians interviewed were vocal in their expression of regret concerning the manner in which the reorganization took place from the very first intimations of trouble to the final ‘exitgesprekken.’ “While on the one hand, as musicians and employees, we could understand that the dismantling process was difficult for our employers, we certainly did not feel as if there was any empathy for our vulnerable positions received. We sat through long meetings where the entire workforce was herded into a rehearsal studio in order to receive updates from managers. In the large

⁹⁶³ Conversations Anton Kok.

⁹⁶⁴ Conversations with Kees Dijk.

⁹⁶⁵ Rather than wait for the inevitable last days at the orchestra, co-principal RKF cellist Teije Hylkema moved to Australia. In 2013, he won the position of principal cello at the Sydney Opera. Principal second violinist Laura Veeze found a parallel position in Symphony Nova Scotia.

meetings we were confronted by total strangers, several women from a marketing or maybe an ‘exit strategy’ company, who presented us with PowerPoints showing how dismissals take place. At the small meetings, we saw presentations with lists of names and lots of statistics to show ‘who might be in and who might be out.’ You could almost write a whole book at how not to dismiss by listening to our experiences.”⁹⁶⁶

10.14 The RKF’s swan song

Under amended provisions of the Media Act intended to modernize the Dutch broadcasting system,⁹⁶⁷ the Rutte II cabinet did not carry out the previous Cabinet’s (Rutte I) agreement to abolish the MCO in its entirety: a limited budget (€14 million of the original MCO budget of €30 million) was allotted to finance a part of the MCO. The Second Chamber (Tweede Kamer) voted in favor of maintaining one symphony orchestra complemented by the GOK choir. “Really, this decision smacked of a move to keep up with appearances. We had gone through so many cuts in the past. To intimate that this slash in funds concomitant to the destruction of more fine radio ensembles is in order to continue to ‘maintain the high quality of classical music’ (quoting from the Parliamentary documents) is a farce.”⁹⁶⁸

In January 2012, the last RKF calendar year, its newsletter reported triumphantly: “2012 started jubilantly for the Radio Chamber Philharmonic (RKF). Members of the orchestra were invited to play during Queen Beatrix’ state visit to the United Arab Emirates and Oman 8- 12 January.”⁹⁶⁹ Regardless of triumphs in far climes, the fate of the RKF was inevitable: with each concert the final dissolution of the orchestra was inevitable.

10.15 Too much smoke, too many mirrors: internal inconsistencies

Interviews with RKF and RFO musicians and MCO OR members support the observation that throughout, the RKF crisis was amplified by internal issues impaired by a marked lack of robust and effective communication that for many musicians

⁹⁶⁶ Testimony from an exceptionally gifted and brave RKF colleague who could have remained in the orchestra but opted to leave, partially because of the way the process took place.

⁹⁶⁷ In Dutch, *Wijziging van de Mediawet 2008 teneinde het stelsel van de landelijke publieke omroep te moderniseren*, 33541 2012-2013. Available at: <https://zoek.officielebekendmakingen.nl/kst-33541-3.pdf>

⁹⁶⁸ Conversations with Kenneth Montgomery, former principal conductor NRSO and principal conductor GOK. The quote refers to material found on Parliamentary record. See Tweede Kamer, vergaderjaar 2012–2013, 33 541 nr. 3.

⁹⁶⁹ Excerpt from *MCO Nieuws* online 14 januari 2012.

exacerbated vulnerability. “Angst and more angst, as we feel as if too much information has been withheld from us. We read about cuts in the newspaper before our management talked to us. We moved from angst to more angst while giving weekly concerts and keeping up appearances.”⁹⁷⁰ To illustrate this criticism on the part of musicians with regard to MCO management and crisis management, an email correspondence sent by the author to the management team and the complete complement of RKF musicians related to what management referred to as ‘an unfortunate press leak’ in a leading Dutch newspaper (*NRC Handelsblad*) deserves mention.⁹⁷¹

MCO management insinuated that the journalist, NRC music critic Mischa Spel, had published articles that were based more on rumor than on fact. The RKF’s management reply to queries on the part of RKF musicians, formulated by the author read in relevant part (translation by the author): “sometimes, however, we (the radio orchestras) trail behind the facts, especially if journalists apparently gather and publish unverified facts that they gleaned through the grapevine.”⁹⁷² This denunciation, specifically directed towards a published statement that foretold that the RKF was slated for extinction was difficult to swallow as it spelled out the truth. Additional examples of managerial ineptness resulted from an email sent to MCO employees written by the MCO’s director Anton Kok: “The proposed Decision is that we will make offers for voluntary departure on the basis of, among other things, quality (individual and group) and social cohesion.”⁹⁷³ Writing on behalf of RKF colleagues, the author responded, “the designate social cohesion, borrowed from the pioneering sociological hypotheses of Emile Durkheim is not clear to us as to how such a term could apply to orchestra members and their suitability to keep their jobs. The musicians were told in group meetings and in section breakaways that the leading factor in determining who stays and who is forced to leave will take place according to the strict proportional rules with quality as another important determinant. Who is going to establish what quality and social cohesion are within the orchestra and who are the chosen ones who possess these qualities? Will our section leaders decide or will conductors who we have rarely encountered decide our fates?”⁹⁷⁴ The changing of the guard at the artistic helm of

⁹⁷⁰ Conversations with former section leader RKF, anonymity assured.

⁹⁷¹ The author’s email, in Dutch, is available in the *Epilogue: Appendix 14*. The NRC announcement appeared on 5 March 2012. Mischa Spel, *NRC Handelsblad* “De Radio Kamer Filharmonie verdwijnt.” Management’s response is available in same Appendix.

⁹⁷² Kees Dijk, Manager RKF and RFO during the reorganization period, email dated 8 March 2012 11:02 AM, in Dutch, “soms lopen we echter achter de feiten aan, met name wanneer journalisten kennelijk vanuit de wandelgangen niet geverifieerde feiten weten te vergaren en ook nog publiceren.

⁹⁷³ Quoting Anton Kok, Director MCO during the 2012 reorganization period. “Het voorgenomen Besluit is dat wij op grond van o.a. kwaliteit (individueel en groepsmatig) en sociale cohesie aanbiedingen zullen doen voor vrijwillig vertrek.”

⁹⁷⁴ See, author’s email, in Dutch, reproduced in *Epilogue: Appendix 14*.

the RFO was another point of contention for musicians fearful for their futures: Markus Stenz took on the responsibilities of Principal Conductor late in 2012-2013 as the reorganization process was in full swing. “Many players never worked under his baton, how could he possibly bear the responsibility to decide who would remain in the orchestra, who might be spared from the cuts?”⁹⁷⁵

Durkheim’s concept of social cohesion found its derivation in collective conscience and has been used to reframe new forms of integration in a societal context. The question posed to the MCO management and director read: how can this concept play a decisive role determining dismissals during an orchestral reorganization?⁹⁷⁶ A reliance on a diffuse concept aroused fear and suspicion amongst the musicians facing job loss. As one of the RKF’s concertmasters observed, “all of our current members successfully completed the long trajectory of auditions and a trial period before they received their permanent contracts. They all have gone through assessments – social cohesion or the lack thereof, would only play a role if a musician was disruptive, and that rarely ever happens. Otherwise, everything we do in performance is based on real social cohesion. It builds an orchestra and now it is being used to break it apart.”⁹⁷⁷ The then Music Director at the MCO, Jaap van Zweden, put it more succinctly, “linke soep” (literally, strange or bizarre soup, better translated as risky business).⁹⁷⁸

10.16 A legal framework for collective dismissals

A brief wrap-up of the regulations that apply to collective redundancies in the Netherlands is called for before considering the MCO reorganization quandaries. Dutch dismissal law is based on a noble principle: to offer extra protection to the weaker party, the employees. In addition to protection, the laws aim to promote consultation between the employer and employees to alleviate the consequences, financial as well as social, inherent to dismissal. In concrete terms, the explanatory memoranda that provide background on collective dismissal regulations calls for employers and representatives of employees, most commonly, the organization’s works council (OR), to consult on a post-dismissal social plan.⁹⁷⁹

⁹⁷⁵ Conversations with former RFO first violinist Anna Korpalska.

⁹⁷⁶ In the original Dutch, from the author’s email: “Het is ons op de eerste plaats niet duidelijk wat termen zoals sociale cohesie kunnen betekenen. Ten tweede is ons verteld dat eerst zal worden gewerkt volgens het afspiegelingsbeleid en dan pas kwaliteit. Wie gaat bepalen wat de kwaliteit en sociale cohesie werkelijk is binnen het orkest? Aanvoorders, dirigenten, lessenaar genoten?”

⁹⁷⁷ Conversations with Quirine Scheffers, former associate first concertmaster RKF until the reorganization.

⁹⁷⁸ In the original Dutch, “om Jaap van Zweden te citeren dit is echt linke soep.”

⁹⁷⁹ In Dutch. “Explanatory Memorandum, Memorie van Toelichting’ Kamerstukken II 1974/75, 13 324, nr. 3.

Following the obligations set forth in the EU directive on the approximation of the laws of the Member States relating to collective redundancies,⁹⁸⁰ the Notification of Collective Redundancies Act (*Wet melding collectief ontslag*, further, WMCO) came into effect in 2011.⁹⁸¹ The first article in the WMCO law dictates that an employer who intends to dismiss twenty or more employees within a three-month time frame must apply in writing to a specifically designated agency, Uitvoeringsinstituut Werknemersverzekeringen (UWV), the Employee Insurance Administration Agency.⁹⁸² Article 3 puts forth the obligation to notify organization(s) representing the employees in a timely fashion.⁹⁸³ Other important regulations of relevance to the protection of employees in the event of collective dismissal are found in the *Ontslagbesluit* (Dismissal Decree) and the UWV's Policy Rules for Dismissals.⁹⁸⁴ Additionally, the MCO's collective bargaining agreement (CAO), the *Wet op de Ondernemingsraden* (Works Councils Act, further WOR), and the MCO's Social Plan 2012 were of particular applicability to the MCO reorganization.

10.16.1 Redundancy selection methods: the first in-first out principal and age cohorts

To promote objectivity in the dismissal process in the event of a request for employee dismissals due to economic reasons, strict rules must be followed to ensure an objective process. Article 4.2 of the *Ontslagbesluit* (Dismissal Decree) regulates the order in which employees should be selected for dismissal. The initial portion of the first paragraph reads: "in so far as the jobs to be lost are interchangeable, the employees with the shortest employment history are the first to be considered for dismissal" (author's translation).⁹⁸⁵ To facilitate the process, the Dismissal Decree further stipulates that

⁹⁸⁰ Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31998L0059>

⁹⁸¹ *Wet melding collectief ontslag* (WMCO Wet van 17 november 2011 houdende wijziging van de Wet melding collectief ontslag in verband met de uitbreiding van de reikwijdte en ter bevordering van de naleving van deze wet, Stb. 2011, 597.

⁹⁸² Art. 1 WMCO established the UWV as the appropriate recipient for dismissal applications.

⁹⁸³ Art. 3 para. 4 WMCO. "A representative organization for employees," (author's translation) must be notified. (In Dutch, "belanghebbende vereniging van werknemers." The organization's works council and the union would meet the relevancy test

⁹⁸⁴ Employee Insurance Agency (Policy Rules for Dismissals) Decree 2012, *Besluit Beleidsregels Ontslagtaak UWV 2012*. Available in Dutch at: <https://www.st-ab.nl/sc/12/16614.pdf>

⁹⁸⁵ *Ontslagbesluit* (Dismissal Decree) Art. 4.2 in Dutch: "Voor zover het bij te vervallen arbeidsplaatsen om onderling uitwisselbare functies gaat, worden per leeftijdsgroep binnen een categorie uitwisselbare functies van de bedrijfsvestiging de werknemers met het kortste dienstverband het eerst voor ontslag in aanmerking gebracht..." waarbij het aantal werknemers dat per leeftijdsgroep voor ontslag in aanmerking wordt gebracht voor zover mogelijk overeenkomt met de onderlinge verhouding van het aantal werknemers in elk van de leeftijdsgroepen binnen de betreffende categorie uitwisselbare functies."

those employees whose jobs are ‘interchangeable’ should be grouped according to age cohorts. “This called for a selection process for each subsection within the string sections: first violins, second violins, violas, cellos, basses. Within each of those sections, age cohort lists were prepared that showed the date each individual musician entered into their contractual relationship with the RFO and/or the RKF. That date was all-important as in some cases we had accepted several musicians for the same section, at the same audition. And it did come to pass that one musician signed a contract on a later date than the colleague who had won the audition on the same date.”⁹⁸⁶ In the interest of procedural fairness, the Dismissal Decree mandates that after the dismissals process has been completed, the age ratios in the new organization within interchangeable function categories should reflect the same proportionality within age cohorts.⁹⁸⁷

10.17 RKF, RFO, and their directors seek legal advice to determine priority with regard to dismissals

The pre-reorganization situation descended into a quagmire of apprehensive and even aggressive actions as the two principal classical music orchestras, the RKF and the RFO, sought legal advice in hopes of finding grounds to guarantee their survival. “Once it became clear that the musicians would have to fight for their futures, a war of words broke out. The two threatened orchestras and the directors of the entire organization sought advice at local law firms. We musicians, we were not really happy with this. After all, couldn’t the money spent on lawyers have been better spent, saved?”⁹⁸⁸ MCO management and directors posed two questions to a team of lawyers at Allen and Overy Amsterdam. Firstly, could members of the RFO derive rights from Minister Bijsterveldt’s letter to the MCO and the Parliament (the Second Chamber) on the basis of which they could claim a place in the newly reorganized orchestra, overlooking the members of the RKF in similar circumstances? Secondly, could members of the RFO claim priority once the redundancy measures were put in place based on their existing MCO contract? (translation by the author).⁹⁸⁹

⁹⁸⁶ Conversations with Ella Broekstra.

⁹⁸⁷ For the complete text in Dutch, see *Ontslagbesluit supra* at fn. 985.

⁹⁸⁸ Conversations with Nico Brandon, former first violin RKF.

⁹⁸⁹ Allen & Overy, Memorandum Unit Klassiek: memo inzake uitvoering bezuinigingsplannen, 29 september 2011. In the original Dutch, “Kunnen leden van het RFO, rechten ontlene aan de brief van de minister aan MCO en aan de Tweede Kamer op basis waarvan zij een plek claimen in een orkest met voorbijgaan aan leden van de RKF en vergelijkbare omstandigheden?” and the second question, “Kunnen leden van de RKF op basis van het bestaande contract een plaats claimen in een afvloeiingsvolgorde?”

In the opinion of the MCO's legal advisors, an appropriate reading of the legal question and the relevant article quoted above suggested an emphasis on the first step in the dismissal decision process,⁹⁹⁰ with extra importance given to a sub-question that centered on a definition of whether the two orchestras, the RFO and the RKF, were 'each acting as an independent unit in the company.'⁹⁹¹ The sub-question in turn linked to the question of whether the MCO's musicians were employed by separate organizational entities or jointly employed by the MCO?⁹⁹²

10.17.1 Several observations necessary to a correct application of the legal framework pertaining to the MCO's (Unit Klassiek) Classical Unit

Although both orchestras were radio orchestras under the aegis of the MCO, the RFO and the reorganized RKF (2005) worked as separate performing entities, from rehearsal preparation to final performances. Numerous broadcasts, concerts, and CD recordings not to speak of orchestra schedules attest to the existence of two separate orchestras. The orchestras rehearsed in different studios in the MCO building and even had their own fan club organizations whose members attended special events and produced newsletters.

The orchestras at the MCO's Unit Klassiek shared a management and financial administration team but to add a bit of confusion, the personnel managers responsible to hire freelance substitute players and stage managers were not shared: the RFO and RKF employed separate support staff members to carry out these important tasks for the two orchestras. "This shows a logical division of labor: the two orchestras in the MCO's classical division rehearsed in different spaces simultaneously and had different concert and recording schedules. Location changes demand a dedicated staff to make sure that the orchestras functioned smoothly."⁹⁹³

The contracts of RKF and RFO musicians under a collective bargaining agreement (MCO CAO and Employment Regulation 2005)⁹⁹⁴ provide ample evidence that following the NRSO reorganization (2005), all MCO musicians were employed

⁹⁹⁰ In Dutch, literally: "wat dient in dit geval als de bedrijfsvesting te worden beschouwd?" Allen & Overy, at 2.5.

⁹⁹¹ In the original Dutch: "elk in de maatschappij als zelfstandige eenheid optredend organisatorisch verband." UWV Toelichting *Staatscourant* 27 december 2001 nr. 249/pagina 42.

⁹⁹² See, Allen & Overy at 2.9.

⁹⁹³ Conversations with Anne-Marie Boeke, former personnel manager RKF, former member of the management team RFO.

⁹⁹⁴ As detailed in the FAQs, collective bargaining agreement in Dutch: collectieve arbeidsovereenkomst (CAO).

by one department, the MCO Unit Klassiek. The contract's Art. 1.2 specified a division of different groups of personnel as follows: "employees are divided into the following main departments: MCO Classical, MCO Vocal, MCO Light Classical, Library, Management, Sales & Marketing, Education, Finances, and personnel. MCO employees are divided into three groups (A = musicians)."⁹⁹⁵ Further specification as to the musicians' positions as members of the two classical MCO orchestras is found in Art. 4.2 (a). Under the heading *Employment*, the article reads in relevant part:

*"a. The employee is employed within the department MCO Classical. . . Within the department MCO Classical there are 2 orchestras, where the employees are placed in 1 orchestra or in both orchestras. Apart from this formal placement, employees can be deployed in both orchestras of MCO Klassiek."*⁹⁹⁶

Originally employed in the first violin section of the RKF (1987-2005), the author received a 'contractomzetting' (contract conversion) letter on 28 September 2005, which announced: "We hereby confirm a number of contractual changes that will take place because of the reorganization within the MCO. Starting 1 August 2005, you will be a part of the Classic Unit of the MCO. You will work part-time as a 1st Violinist for an indefinite period of time. As your position will remain the same in terms of content, no changes will be made to the employment conditions."⁹⁹⁷

Although one could debate the validity of information disseminated in a newsletter as a base for legal argument, Allen & Overy relied on the information in one particular MCO newsletter sent to all musicians on 22 september 2005, regarding the reorganization that created MCO Nieuw (the new MCO post-NRSO dismantlement) for both fact-finding and decision-making. In its new MCO Nieuw incarnation, negotiated with the approval of the unions and the orchestras' works councils, musicians formerly employed by the NRSO, RFO or RKF would not be entitled to decline placement in one or both of the newly reorganized orchestras, the Radio Philharmonic (RFO

⁹⁹⁵ MCO CAO entry into force 1 april 2005, Art. 1.2 "Werknemers kunnen werkzaam zijn binnen de volgende hoofafdelingen: MCO Klassiek, MCO Vocaal, MCO Lichte Muziek, Muziekbibliotheek, Directie, Sales & Marketing, Educatie, Financiële Zaken en Personeelszaken...De werknemers zijn ingedeeld in drie personeelsgroepen Personeelsgroep A- musici"

⁹⁹⁶ MCO CAO Article 4.6 (a) in the original Dutch: "Tewerkstelling

a. De werknemer wordt tewerkgesteld binnen de afdeling MCO Klassiek. . . Binnen de afdeling MCO Klassiek is er sprake van 2 orkesten, waarbij de werknemers geplaatst zijn in 1 orkest of in beide orkesten. Los van deze formele plaatsing kunnen werknemers in beide orkesten van MCO Klassiek worden ingezet."

⁹⁹⁷ The contract conversion letter, in original Dutch 28 september 2005: "Als gevolg van de reorganisatie binnen het MCO zullen er voor u een aantal contractuele wijzigingen plaatsvinden die wij u hierbij bevestigen. Met ingang van 1 augustus 2005 zult u deel uitmaken van de Klassieke Unit van het MCO. U zult voor onbepaalde tijd parttime als 1ste Violiste werkzaam zijn. Daar uw functie inhoudelijk gelijk blijft zullen er geen arbeidsvoorwaardelijke wijzigingen plaatsvinden." See, *Epilogue: Appendix 15*.

new style) and the Radio Chamber Philharmonic (RKF). Taking the complement requirements of the orchestras into consideration, the MCO musicians had to adjust to flexible schedules that could translate into one week performing with the Radio Chamber Philharmonic and the next week in the RFO.⁹⁹⁸

Of significance to Allen & Overy's considerations, the aforementioned newsletter presented the viewpoints of the MCO directors with regard to the question of MCO musicians' legal status in the case of an eventual future reorganization. "The handwriting was on the wall for the radio musicians: we were cut and reshuffled so many times in recent memory that we wanted to have some reassurance concerning our job security, or to quote our RKF first violin colleague Nico (ed. comment, Nico Brandon), job insecurity."⁹⁹⁹ The following newsletter text is particularly appropriate to establish a basis for equal treatment under the protocol set by dismissal rules. The relevant text, (in the author's translation): "In order to prevent that in the event of an unexpected new austerity target, the suggestion could ever again be made that austerity could simply mean the cancellation of one of the classical orchestras, it was decided to make a new contract for everyone, where it could also have been communicated in the form of a unilateral confirmation from the employer. For many people, a new contract has a symbolic value."¹⁰⁰⁰ A manifestation of symbolic value or a contract to rely upon?

10.17.2 Second opinion: Loyens & Loeff

Unhappy with Allen & Overy's conclusions, the RFO's orchestra committee sought a second opinion from the distinguished Dutch law firm, Loyens & Loeff. Did the MCO pass the test of a sole business establishment within the meaning of Article 4:2 Dismissal Decree 2012,¹⁰⁰¹ or did the fact that the RFO and the RKF operated separately from one another substantiate the claim that the orchestras were two separate business establishments? In support of their arguments to refute Allen & Overy's findings, the RFO submitted several MCO policy plans¹⁰⁰² and musician's contracts.

⁹⁹⁸ MCO Orchestral planning schedules (2005-20012) in the possession of the author provide evidence of orchestra switches and flexible scheduling.

⁹⁹⁹ Conversations with Laszlo Tuschni, former first violinist RKO and RKF.

¹⁰⁰⁰ MCO Nieuwsbrief 22 september 2005, in the original Dutch: "Om te voorkomen dat bij een onverhoopte nieuwe bezuinigingsstaakstelling ooit nog de suggestie gewekt zou kunnen worden dat bezuinigen kan inhouden het simpelweg schrappen van een van de klassieke orkesten, is besloten voor iedereen een nieuw contract te maken, daar waar het ook in de vorm van een eenzijdige bevestiging vanuit de werkgever gecommuniceerd had kunnen worden. Voor veel mensen heeft een nieuw contract een symbolische waarde."

¹⁰⁰¹ See, *Ontslagbesluit supra* at fn. 985.

¹⁰⁰² In Dutch. Meerjaren Beleidsplan 2011-2015 and Beleidsplan MCO Klassiek 2009.

Contrary to Allen & Overy's findings concluding that the MCO was a single business operation with two orchestral subdivisions, the RFO argued that the two orchestras were in fact substantially differentiated from one another.¹⁰⁰³ The RFO and RKF not only rehearsed in separate studios and performed as independent musical organizations under the names RFO and RKF, the two orchestras listed photos and names of their musicians on separate webpages. An organizational chart included in the orchestras' policy plans listed separate conductors, production managers and orchestra assistants. Furthermore, they argued that the RFO CDs were distributed internationally to great acclaim.

Turning to another major point that supported the disputed Allen & Overy conclusions, the RFO claimed that only a few musicians rotated between the two orchestras, most musicians operated from a single 'home' orchestra, either the RFO or the RKF. In addition, the RFO claimed that many musicians had never signed the new (2005) contract with the MCO, thus the original RKF contracts were leading. If the proportionality principle would be applied to MCO musicians regardless of their home orchestra, the RFO new style would lose its initial complement of players and it would take years to reach its then present high level of accomplishment.¹⁰⁰⁴ The Loyens memorandum emphasized that it was the intention of the Minister to maintain the RFO in its present state of distinction; personnel changes – in other words, the introduction of musicians from the RKF – would undermine its exalted status. To conclude, according to Loyens & Loeff, the RFO musicians deserved priority to keep their positions post-reorganization and to acquire priority in the all-important proportionality(*afspiegeling*) process.¹⁰⁰⁵

10.17.3 Reactions from MCO colleague-musicians

“When RKF members received a copy of the Loyens memorandum, we did not know whether we should laugh or cry. Not only did it show a total lack of solidarity with MCO colleagues all facing a bitter reorganization, but it was also full of falsehoods. For example, was the RFO the sole orchestra to release CDs to international acclaim? No, a long list of RKF CD releases also received top reviews and international recognition. Or, what about the fact that many musicians did not sign the 2005 MCO contract? Did

¹⁰⁰³ Loyens & Loeff Second Opinion memorandum 17 october 2011 at 2.2.1. See, *Epilogue: Appendix 16*.

¹⁰⁰⁴ *Ibid.*, at 4.14.

¹⁰⁰⁵ *Ibid.*, at 4.3.2. Here reflection seems more appropriate in translating *afspiegeling* than either balance or proportionality.

this mean that the contract was not binding? Did they need to consult lawyers to figure that out? Critically, the quality argument stating that the RFO would suffer after the reorganization if players from the RKF would join their ranks was not only insulting but also totally unproven. Consider how fast the RKF absorbed the players from the NRSO after the 2005 reorganization and what a level was reached – all of us musicians, together.”¹⁰⁰⁶

10.17.4 Ministerial clarification settles the question of priority

Allen & Overy’s conclusions sought to settle the difference of opinion as to priority within the redundancy procedure. Based on the considerations spelled out above, this piece of legal advice concluded that the musicians of the RFO and the RKF were on equal footing. To bolster their arguments and those of their legal advisers, the MCO requested Minister Bijsterveldt to prepare a letter of clarification (in Dutch, “verduidelijkingsbrief”) to answer the golden question of whether RFO musicians could justify priority with regard to RFO musicians’ priority claim. Her response: “In order to further clarify the character of the orchestras, I added their names in brackets in the text of my letter dated 16 September. It was certainly not my intention to interfere in the employment law relations between the musicians and the MCO.”¹⁰⁰⁷ Thus, the RFO musicians could not rely on Minister Bijsterveldt’s letter to both the MCO and the Second Chamber to acquire priority in the sequence within the dismissal procedure. Allen & Overy’s memorandum reiterated that the musicians of both orchestras (RFO and RKF) would be entitled to equal treatment within the redundancy sequence. “A sigh of relief for all concerned because this was the definitely the fairest outcome to an impossible situation that none of us wanted to find ourselves in. Can you imagine what would have happened if this compromise had not been foreseen by the MCO back in 2005?”¹⁰⁰⁸

10.17.5 A third advisory path: Houthoff Buruma

The RKF turned to yet another well-known Dutch law firm, Houthoff Buruma for an interpretation of the Allen & Overy and Loyens & Loeff memoranda. In a memorandum dated 31 October 2011, the fundamental question of whether the RFO

¹⁰⁰⁶ Conversations with Maurits Wijzenbeek.

¹⁰⁰⁷ Minister Bijsterveldt’s clarification letter reprinted in MCO-toekomst (future) communiqué Anton Kok, 14 november 2011. In Dutch: “Om het karakter van de gezelschappen nader te verduidelijken zijn in mijn brief van 16 september tussen haakjes de namen van de huidige gezelschappen vermeld. Het is echter niet de bedoeling geweest om mij te mengen in de arbeidsrechtelijk verhoudingen tussen musici en het MCO.”

¹⁰⁰⁸ Conversations with Kees Dijk.

and RKF were united as one business establishment under the aegis of the MCO or if the two orchestras were to be considered as separate establishments was put forward.

Emphasizing the import of an answer that was key to establish dismissal ranking in the proportionality (*afspiegeling*) regime, Houthoff sought to mitigate its response by first presenting ancillary information. “For the sake of completeness, I would like to point out that it is also conceivable to implement possible dismissals by means of settlement agreements in which the employment contract is terminated by mutual consent.”¹⁰⁰⁹ In other words, while the priority of musicians in the dismissal process was of great import, it was only one factor of importance within the wider scope of dismissal. As alluded to earlier in the *movement*, the MCO eventually opted to offer voluntary departure opportunities (*vrijwillig vertrek*) to musicians who had reached the age of 59,¹⁰¹⁰ “to partially relieve the burden of musician reductions.”¹⁰¹¹

The Houthoff memorandum listed significant external characteristics opining that these externalities pointed to the existence of one central organizations (MCO) with separate sub-orchestral establishments as subordinate. In their estimation:

1. Both RFO and RKF are recognized Dutch radio orchestras
2. Both RFO and RKF are registered at the same address
3. The orchestras do not submit independent financial/tax reports
4. The orchestras are not registered as separate legal entities
5. The orchestras shared the same chief conductor, Jaap van Zweden (2005-2010)
6. The orchestras shared the same Manager, Kees Dijk (2008-2013)
7. RFO and RKO had separate artistic committees however there was evidence of shared artistic coordination
8. RFO and RKO were represented jointly on the Works Council

Houthoff emphasized that although the RFO and RKF performed their own concerts, the two radio orchestras shared audiences: “a significant part of their clients purchase a series of concerts, which are played partially by the RFO and partially by the RKF” (author’s translation)¹⁰¹² In conclusion, Houthoff supported the Allen & Overy

¹⁰⁰⁹ In Dutch, Houthoff Memorandum at 2 See, *Epilogue: Appendix 17*.

¹⁰¹⁰ The age of 59 was an indication of the age variable: the author was 58 when the voluntary departure offer (*vrijwillig vertrek*) offer was made.

¹⁰¹¹ Conversations with Ella Broekstra.

¹⁰¹² Houthoff Memorandum at Ad. 4. “Ik denk niet dat sprake is van een eigen klantenkring of doelgroep. . . een groot deel van de klanten afnemer is van een serie concerten is, die deels door het RFO en deels door de RKF worden gespeeld. Alleen daar blijkt al uit dat niet sprake is van een strikt separate doelgroep.”

memorandum's findings and refuted the Loyens position. The internal organizational characteristics of the two orchestras merited the designation of a single business enterprise: the MCO.

10.18 Aid and abetment: the Social Plan

To U.S. orchestral colleagues, the very notion that employers and trade unions (with added input from the OR) devise a Social Plan to alleviate former employees' redundancy traumas is a dream come true. "In the U.S., we do not have much of a safety net. If an orchestra is struck down by financials, no play, no pay. Musicians can apply to the union's emergency relief fund, which certainly does not offer the cushion of a Social Plan."¹⁰¹³ Although not mandatory under Dutch law, a Social Plan is commonly employed to mitigate the harsh realities suffered by employees facing dismissal due to reorganization.¹⁰¹⁴ The MCO's Social Plan was made in agreement with the social partners and the OR at the behest of Minister van Bijsterveldt. The closing sentence in the preface to the MCO's Social Plan 2012-2013 reads: "social partners will seek to preserve as many MCO jobs as possible." Perhaps as intimated by FNV negotiators, a stock phrase nonetheless, it provoked dismayed reactions on the part of musicians faced with imminent discharge.¹⁰¹⁵ "Salt on open wounds, if it all comes down to cutting the RKF entirely, why pretend to save our jobs? When push eventually came to shove, former musicians, I guess we could call them smooth talkers were hired to work part-time at well-paid MCO office posts. We easily could have predicted who that might have been in advance, our management was not secretive with its favoritism."¹⁰¹⁶ The Social Plan outlined the procedures associated with the termination of employment contracts and the financial compensation for redundant former MCO employees, starting at the termination-of-contract date 1 August 2013. "We were satisfied by a transparent and generous settlement in which our ex-employees could expect compensation for a maximum of minimum 6 months to a maximum of

¹⁰¹³ Conversations with Tino Gagliardi.

¹⁰¹⁴ The opening reflection, preface to the MCO's Sociaal Plan 1 juni 2012 t/m 31 december 2013. "Social partners, MCO management and the trade unions FNV KIEM and Ntb have worked on a Social Plan for the employees of the MCO which, according to the parties, is responsible for the termination of the employment contract within the framework of the reorganization as a result of the far-reaching subsidy decision of the central government." (author's translation) Available in Dutch at: https://www.ntb.nl/wp-content/uploads/2015/11/Sociaal_Plan_MCO_2012_definitief_01.pdf

¹⁰¹⁵ Ibid., in Dutch, Sociaal Plan MCO Overweging "Sociale partners zullen ernaar streven zoveel mogelijk werkgelegenheid voor het MCO te behouden."

¹⁰¹⁶ Conversations with former NRSO member, subsequently RKF (2005-2013) anonymity assured. The assertion of rehires (musicians transitioning to management posts) is corroborated by the MCO staff lists, 2013-2018.

60 months depending on his/her length of service.”¹⁰¹⁷ The contents of the Social Plan met with the approval of most musicians interviewed. However, the way voluntary departure was communicated led to agitation and confusion as following sections illustrate.

10.19 Relevant principles of Dutch dismissal law: *afspiegeling*

The ‘afspiegelingsbeginsel’ literally, the reflection principle, translated with some regularity as the ‘proportionality’ or ‘balance’ principle, is one of the central pillars within the ample body of Dutch dismissal regulations related to reorganizations due to economic necessity. According to the principle, employees with interchangeable positions are grouped into categories according to age. Under a ‘last in, first out’ principle, the employees with the least number of years in service within each age group are the first who are eligible for dismissal. Furthermore, and importantly, the principle requires that job losses must be proportionally distributed between age cohorts.¹⁰¹⁸ Another germane legal protected requirement that impacted the RKF reorganization and the manner in which musicians interpreted the process related to the concept of *uitwisselbaarheid van functies*, the exchangeability factor.¹⁰¹⁹ The instructions given in the policy rules on dismissal provide instructions as how to eschew decision-making on the basis of employees’ qualities as opposed to strictly defined job descriptions. “The problem with orchestral positions is exactly within that straitjacket of a definition: what is the difference between an associate and an assistant concertmaster (plaatsvervangende 1ste en 2de concertmeester)? Or, for that matter, a second flautist who doubles on piccolo and a second flautist who is a superlative player but does not double? The law does not answer these questions, the employer has to navigate on his own.”¹⁰²⁰

10.19.1 *The occasionally involuntary nature of voluntary departure*

Musicians whose positions were about to be phased out, orchestral members facing redundancy (boventallig) exemplified at the radio orchestra reorganization 2012-2013

¹⁰¹⁷ See Chapters 5 and 6 Sociaal Plan supplemented by conversations with Ella Broekstra.

¹⁰¹⁸ *Ontslagbesluit* (Dismissal Decree) Art. 4.2 para. 1 in relevant part: “The employees with the shortest number of years of employment will be considered for dismissal first within each category of interchangeable functions in the business establishment.” (author’s translation). In Dutch “per categorie uitwisselbare functies van de bedrijfsvestiging worden de werknemers met het kortste dienstverband het eerst voor ontslag in aanmerkinggebracht.”

Available in Dutch at: <https://zoek.officielebekendmakingen.nl/stcrt-2005-242-p24-SC72708.html>

¹⁰¹⁹ Based on the *Ontslagbesluit* 2012, *supra* at fn. 985.

¹⁰²⁰ Conversations with Catharina Kat, founder Catlaw Amsterdam, expertise in employment law and musicians, <https://catlaw.nl>

by the secondary principal string players, were given the chance to opt for voluntary departure as specified in the Social Plan.¹⁰²¹ The musicians received letters dated 19 June 2012 with ‘Employment’ (dienstverband) in the subject line.¹⁰²² Summarizing the reasons for austerity, the letter mentioned that, although the OR was not positive with regard to all of the personnel-related cuts and the manner in which these cuts would be effectuated, the OR did agree to the commencement of individual meetings between MCO management and employees most-likely faced with redundancy. The opening of the following paragraph raised consternation: “As communicated verbally to you on Monday 25 June 2012, we are proposing to you a personal offer of voluntary departure.”¹⁰²³ “Really, although there was nothing funny about this whole business, a letter dated 19 June about communication on 25 June gave us a strange feeling – that if our bosses could not get dates straight, how would they deal with the legal documents to follow?”¹⁰²⁴ Confusion of dates aside, there was another major point of contention written into the text of the letter: “if we do not receive a response before the deadline, we will assume that you do not intend to accept the offer (voluntary departure) and we will proceed to employ an alternative method to determine reduction (redundancy).”¹⁰²⁵ The term “alternative method” caused concern. “It made me feel guilty, really guilty if I would decide to stay on. I really could not fathom leaving my orchestra voluntarily, but this phrase added to the pressure to conform with what management felt was reasonable. It took me until the very last day to make a decision. Really, if all of this had been explained to us much earlier, we could have made logical, reasoned decisions without all of the emotional distress.”¹⁰²⁶

Disillusionment set in as musicians shared accounts concerning the personal meetings. “There was very little of that word ‘voluntary’ in this option, it was more like leaving with a gun to your head, that is what the decision to annul my leadership position really meant. The distant, cold, and yes, calculating manner in which I was told that my job was disappearing came as a shock. No thanks, no personal message. That is when I realized that playing your heart out for all those years was a gift to the public, certainly not to our managers.”¹⁰²⁷ The final statistics concerning voluntary departure

¹⁰²¹ See, Sociaal Plan Art. 10 and Art. 11.

¹⁰²² A copy of the author’s anonymized Employment Letter is available in Dutch *Epilogue: Appendix 18*.

¹⁰²³ Ibid, in Dutch “Zoals op maandag 25 juni 2012 mondeling aan u is medegedeeld doen wij een aanbod tot vrijwillig vertrek.”

¹⁰²⁴ Conversations with Jill Bernstein, RFO violinist until the 2012-2013 reorganization.

¹⁰²⁵ See, Employment Letter *Epilogue: Appendix 18*, in the original Dutch, “Ontvangen wij voor die datum geen reactie, dan gaan wij er van uit dat u het aanbod niet accepteert en zullen wij overgaan tot een alternatieve formatiereductie.”

¹⁰²⁶ Conversations with a former member of the RFO, anonymity assured.

¹⁰²⁷ Conversations with Micho Dimitrov, former Associate Concertmaster, RFO until 2012.

reveal that 24 musicians left the orchestras and chorus as a result of the age-related criteria, 46 musicians suffered partial job-loss with 12 of these musicians reduced to 50% employment, 20 musicians lost their jobs due to complement cuts (positions dismantled) and 15 musicians resigned citing non-publicly disclosed reasons.¹⁰²⁸

10.19.2 When reflection is obscured: exceptions to the afspiegelingsbeginsel

The delicate balance that operates within this principle is not applicable if an employer outlines a reasoned decision to terminate certain exceptional positions.¹⁰²⁹ If the employer decides to take this route, only the business economic reasons and the possibility of redeployment of the employees associated with these positions will then be assessed.¹⁰³⁰ With regard to the RKF dismissals, the decision was taken to do away with an entire category of positions within the string sections. “Back during the first NRSO cut, management created a larger version of the RKF, expanding the complement from the small chamber orchestra size of less than 60 musicians to a chamber philharmonic (Netherlands Radio Chamber Philharmonic formed in 2005) with 77 players. When I was re-assigned from the large orchestra, the NRSO to the RKF, it felt strange for a brass player so used to playing in a full-sized brass section to play a much different repertoire with fewer players. That merger destroyed a unique chamber orchestra and transformed it into a novelty: a chamber philharmonic. Early days in that new orchestra were tense as the culture of a chamber orchestra is entirely different from a larger symphonic ensemble. What politicians and economic advisors tend to forget when cutting orchestras is that they are really living, breathing, musical organisms populated by musicians of flesh and blood. When we are reduced to FTEs,¹⁰³¹ we cease to exist.”¹⁰³² Tellingly, the broadcasters themselves took distance from their own broadcasting orchestras, opting to sacrifice musicians for other expenditures perceived of as more suitable for the airwaves.¹⁰³³

10.20 Another relevant dismissal concepts: the indispensable employee (*onmisbaarheid*)

“With regard to your client and his/her objection to redundancy within the MCO reorganization, the MCO conducted meetings with musicians. The conversations were of an informative

¹⁰²⁸ See *Epilogue: Appendix 19* for a copy of the email sent with this important information to all MCO employees dated 10 May 2012.

¹⁰²⁹ See, in Dutch, *Besluit Beleidsregels Ontslagtaak UWV* (Policy Rules for Dismissals) *supra*, fn. 985.

¹⁰³⁰ *Ibid.*

¹⁰³¹ FTE refers to full-time equivalents: a full-time employee’s workload.

¹⁰³² Conversations with Cyril Scheepmaker.

¹⁰³³ Sandra Kooke “Omroeporkesten slachtoffer van weeffout” *Trouw* 27 juni 2003. In the original Dutch “Toch is het veelzeggend dat er kennelijk binnen de omroepen zo gedacht wordt over de omroeporkesten.”

nature, i.e., they were not yet conversations in which staff members were definitively declared superfluous. The decision-making process (e.g., request for advice from the Works Council regarding the reorganization) has not yet been completed and is expected by January 2013.

Because these were informative talks with 170 MCO musicians we only dealt with the situation of the musician in question during the talks and deliberately did not discuss concrete criteria and assessments during these talks. We opted to inform all those involved first, without giving any further information about colleagues.

We can imagine that your client is angry and disappointed that we have informed him/her that he/she will be foreseeably redundant because a direct colleague has been deemed to be indispensable.

Should this situation become definitive, your client will be informed no later than January 2013 and will be free to formally object to dismissal as well as ask for insights into the criteria applied.”¹⁰³⁴

According to the UWV’s Policy Rules for dismissal, an employee with knowledge and skills that are deemed indispensable for the organization to continue to function post-reorganization can be specially exempted from the dismissal procedure.¹⁰³⁵

“This was for many of us musicians, the most difficult allowance especially as we were not aware of the criteria our management used to determine how they decided who was exceptional. Obviously, the guiding hand of the maestros must have been determinative but then again, that was terribly hard on us; some of us had literally never played under the baton of the conductors who were making these all-important choices. Was there an element of nepotism [in Dutch, ‘vriendjes politiek’]? Especially with regard to certain wind instruments, there were too many dubious decisions in the minds of many.”¹⁰³⁶ The MCO based its indispensability criteria on a highly subjective talent criteria defined maladroitly in communiques to MCO musicians as: “talent is a natural ability to do something right, an innate ability or suitability for something.”¹⁰³⁷ Renamed Berenschot’s folly as a reference to the source of the definition, MCO musicians were unanimous in their rejection of the premise that the future of their hard-earned orchestral positions could be based on a decisive factor with no measurable benchmark. “To emphasize talent made a mockery of our years of service, our musical commitment, our proven worth to our orchestras. It led to

¹⁰³⁴ Response (email) sent to RKF musician in advance of dismissal due to the MCOs choice to grant a colleague the status of ‘onmisbaar’, essential or indispensable. The colleague threatened with dismissal sought legal advice and eventually sued the MCO. Email in the possession of the author, anonymity assured.

¹⁰³⁵ See, in Dutch, definitions on the official government website devoted to dismissal and the balance principle, in Dutch at: <https://www.rijksoverheid.nl/onderwerpen/ontslag/afspiegelingsbeginsel>

¹⁰³⁶ Conversations with principal players, former RKF some of whom were permitted to stay and play in the RFO, others who lost their jobs. Anonymity assured.

¹⁰³⁷ In the original Dutch: “Talent is een natuurlijk vermogen om iets goed te doen, een aangeboren handigheid of geschiktheid voor iets.” See, OR Adviesaanvraag met betrekking tot de gevolgen van de aangekondigde bezuiniging (MCO call for advice) 27 april 2012 p. 13.

confusion and even anger not only from those directly affected by so-called talent-based but from all musicians who know that success in an orchestra is more about the ability to blend, to contribute to the collective and work hard to reach musical goals than it is about talent!”¹⁰³⁸

Several musicians opted to litigate against the MCO to challenge the specific indispensability choices made by the employer. Conversations with advocates active on behalf of MCO-related claims and follow-ups with several ex-RKF and RFO colleagues emphasized the complexity and personal distress that characterized these cases.¹⁰³⁹ Although the ex-colleagues discussed their issues openly, and as seen above, shared emails, the author respects her promise not to publish any further details concerning situations shared in confidence. Several years post-reorganization 2012-2013, many affected musicians were acrimonious concerning the ‘indispensables.’ “Yes, some of us sued and got nowhere, one or two who were awarded some extra financial compensation and others are now performing as members of the RFO in their essential, indispensable function. Like with other types of injustice, it is better to move on and not speak about what happened. Talking does not remove the sense that although we know the reorganization was certainly not the fault of our managers, the decisions to allow certain musicians to stay and others to dismiss, were not always reflecting fairness. Do the math. How many of the players who got that indispensable status had ever played in or were a part of the NRSO? No way, the status was reserved for RFO players.”¹⁰⁴⁰

Given the opportunity to respond to these allegations, the MCO’s HRM director maintained that the process proscribed by Dutch law was followed meticulously. “Two points, important points should be made. Remember, musicians often do not see the difference between who they are and what they do. As professional, I do not take my position home with me but once a musician, always a musician. Firstly, musicians take their identities as musicians so seriously that it is their leading identity even after they get home. There is little separation between the workplace, the concert hall, and the home. Secondly and regrettably, musicians have almost ‘no social hygiene.’ [directly translated from the Dutch, more appropriate in English: musicians do not show a great deal of respect for each other’s physical and mental health]. They hear a rumor and spread it around as soon as possible, which means that sooner or later, the

¹⁰³⁸ Conversations with four RKF section leaders, anonymity assured.

¹⁰³⁹ Conversations with lawyers Catharina Kat (Catlaw), Bart de Vroe (Vestius Advocaten), and legal advisors at both ARAG and DAS.

¹⁰⁴⁰ Conversations with a former NRSO principal who was not given the ‘onmisbaar’ status.

fabricated or re-personalized story becomes the whole truth. There were hundreds of examples from the MCO reorganization files 2013 of secret agendas and lists of inside players or of a powerful conductor getting rid of certain NRSO players to the advantage of RFO players. It was not as if a certain wind player was chosen because he or she came from the RFO as indispensability (onmisbaarheid) revolves around one factor: who is the most outstanding player in that group who determines the sound quality, who deserves this special advantage?”¹⁰⁴¹ Cogent commentary, yet taking the first point with regard to musicians’ identity to heart, the MCO should have taken its duty of care more seriously with regard to the manner in which sensitive aspects of reorganization, from voluntary departure to indispensability, were conveyed as multiple interviews with musicians confirm. In conclusion, six musicians were granted the coveted indispensable status and several musicians whose jobs were cut as a result of that special status took action. The final scorecard, deeply confidential in nature, reveals that several succeeded in receiving additional financial compensation although none of these musicians were reinstated to their former positions within RFO.

10.21 Adding insult to injury? Interactions between management and musicians

Two words, “massale broedermoord” (“unmitigated fratricide”) were repeated by radio orchestra colleagues who endured the long drawn-out RKF dismissal process. Although communiqués were distributed regularly, the malaise of the musicians was exacerbated by the lack of specific information not to speak of the tone taken by a distanced management team “who seemed to retreat from us while resorting to communication with newly hired lobbyists and HRM interims. One of the most distressing features of the long, drawn-out reorganization process was not embedded in the fact that the RKF would disband but the how and when. Too many of our colleagues did not know their fates, whether they would be able to stay on as a part of the new orchestra, or whether their careers as orchestral musicians were on the line. It was the last-minute phenomenon, the uncertainty that caused so much confusion, so much pain.”¹⁰⁴² This viewpoint was corroborated by the MCO’s Works Council presenting its opinions clearly in the Advies (Advice) documented presented to management and disseminated to all MCO employees: “The Works Council has suffered greatly from information disseminated from management-director that changed constantly,

¹⁰⁴¹ Conversations with Ella Broekstra.

¹⁰⁴² Conversations with, former first violinist Netherlands Radio Philharmonic (RFO) Peter Weimar.

not to speak of changing circumstances. This had a major effect in its contacts and communication with orchestral stakeholders, the musicians at the MCO.”¹⁰⁴³

A last-ditch attempt on the part of the MCO to make a counterproposal to a Minister intent on effectuating cuts was doomed for failure. “The MCO proposes to make a substantial improvement in the efficiency of the financial agreement by cutting back on the costs of a symphony orchestra, by making savings at the GOK, RFO, RKF, and Metropole Orkest, and by abolishing the Music Library and MCO Education.”¹⁰⁴⁴ MCO musicians and staff members were not surprised when this particular message fell on deaf ears. “Using the language of management to curry the favor of the decision-making politicians, especially when it spelled out the annihilation of a treasured library was cursed from the very onset. An analogy to reprehensible behavior often exhibited during wartime comes to mind – betray one to save another.”¹⁰⁴⁵



Final RKF Saturday Matinee rehearsal Concertgebouw Hall June 15, 2013 Janine Jansen soloist, Michael Schönwandt conductor. Author pictured in the first violin section.

Music critics in the Netherlands and pundits abroad reflected on “the paradoxical situation that the musicians of the RKF, whose jobs are seriously under threat, can still make such joyful music.”¹⁰⁴⁶ To the musicians, this behavior fell in line with a

¹⁰⁴³ In the original Dutch: “in de contacten met de achterban heeft de OR veelvuldig last gehad van de voortdurend en snel wisselende informatie en situaties.”

¹⁰⁴⁴ Taken from the MCO Newsroom reprinted on the MCO website access for personnel, 11 June 2011. In Dutch “Het MCO stelt voor een forse efficiëncyslag te maken die financieel overeenkomst met het wegbezuinigen van een symfonieorkest, door te bezuinigen bij het GOK, RFO, RKF en Metropole Orkest, en door de muziekbibliotheek en MCO Educatie op te heffen.”

¹⁰⁴⁵ Conversations with Frans Brügger.

¹⁰⁴⁶ Frits van der Waa. “Andrew Manze” *De Volkskrant* 13 juli 2012. In the original Dutch “Dat de musici van de RKF, wier banen ernstig op de tocht staan, nog zulke vreugdevolle muziek kunnen maken blijft een bijna paradoxale gewaarwording.”

business-as-usual mentality. “Musicians need to want to, live for playing music. And that is what we did, until the very, very last note.”¹⁰⁴⁷

10.22 Solidarity? Contrast to orchestras under fire in the United States

Responses to the culture cuts came swiftly from media reports in leading newspapers, journals and radio broadcasts worldwide.¹⁰⁴⁸ The MCO musicians took it upon themselves to gather support from fellow musicians worldwide, a tradition that rested upon actions taken on the eve of the NRSO cuts in 2005.¹⁰⁴⁹ Dutch cultural world leaders called for protest actions epitomized by the *Schreeuw voor Cultuur* *Sc voor* (Scream for Culture) and the *Mars der Beschaving* (March for Civilization) 26-27 June 2011.¹⁰⁵⁰



**Mars der Beschaving sets forth from Rotterdam
June 26, 2011**

¹⁰⁴⁷ Conversations with Dimiter Tchernookov, former associate concertmaster RKF, as of 2017, second concertmaster RFO. The RKF's final concert under the direction of Frans Brüggem took place on 14 July 2013 at the Concertgebouw.

¹⁰⁴⁸ Beyond reporting in the Dutch media, the MCO cuts were reported in newspapers and journals in the U.K. and the U.S. For a report in *The Guardian* see: <https://www.theguardian.com/music/tomserviceblog/2010/oct/05/dutch-arts-cuts-orchestra>

¹⁰⁴⁹ See for example, musicians' letter sent to 75 internationally acclaimed musicians in 2004 *Epilogue: Appendix 20*.

¹⁰⁵⁰ *Mars der Beschaving* took place on June 26-27, 2011. Approximately 5000 actors, artists, musicians, and cultural sector aficionados walked from downtown Rotterdam to the Hague's Malieveld, tens of thousands of supporters cheered the marchers on and over 10,000 swelled the ranks in the Hague, see *FAQs*, the author as eyewitness.

A reoccurring theme that came to the fore in multiple interviews concerned intra-orchestral solidarity. U.S. orchestral musicians and their organizations are known for their vocal support for colleagues in need. But, when the Dutch radio orchestras faced their last-ditch battle for survival in 2012-2013, audience support was massive; however, the officials, from the RvC to managers of subsidized regional and municipal orchestras, were silent. Conspicuously missing from the march and other calls to action were statements from the country's leading orchestra, the Royal Concertgebouw (RCO). "It was worse than quiet, musicians in the orchestra were told by the board not to participate in any of the cultural strikes and calls for action. Our management felt that protests on behalf of others would be detrimental to our organization as we might alienate those who grant future subsidies. Dubious at best, it takes us back to the war and it put those of us who wanted to join in and show our support in a very compromising position. Do you follow what you know is right or do you listen to the boss?"¹⁰⁵¹

10.22.1 Secret weapons?

Speaking of paying attention to the boss, MCO musicians were encouraged not to engage in actions that could possibly work against the common interest to save the organization in its entirety. Without providing any salient details to inform the employees, MCO Director Anton Kok alluded to a powerful lobby in his communiqués, emails, and speeches. "The lobby that we have deployed is listening to us now, thus I would urge you not to take action as this could harm this allegiance."¹⁰⁵² Musicians and other MCO employees were reminded of the possible negative impact of even the most reasonable calls to action at many points in the reorganization trajectory. In retrospect, the wisdom of these precautions can certainly be questioned as the oft-referenced 'powerful lobby' employed by the MCO to deliver its message to the appropriate politicians was ineffective. "The OR actively questioned management about what these lobbyists were doing, or more importantly, what they were not doing but we never really received convincing answers. Politicians and lobbyists frequently come from the same fishpond (vijver, in Dutch) which makes critical outsiders skeptical."¹⁰⁵³

¹⁰⁵¹ Conversations with Carol Harte, former bassist Royal Concertgebouw Orchestra (RCO). Ms. Harte joined with the author and thousands to march.

¹⁰⁵² Email written by Anton Kok, Director MCO, sent to all employees on 17 June 2011 in the possession of the author. In the original Dutch "de lobby die wij nu ingezet hebben luistert erg nauw. Ik wil jullie daarom met klem verzoeken geen acties op touw te zetten. Dit kan onze inzet schaden."

¹⁰⁵³ Conversations with MCO Works Council member, anonymity assured.

10.22.2 Collegial support in the U.S.

A different story emerges across the Atlantic. Under the motto, “we are all one,” pride of place was given to locked out musicians of the Fort Worth Symphony at the annual meeting of the International Conference of Symphony and Opera Musicians (ICSOM) in Washington D.C. in 2016.¹⁰⁵⁴ Orchestral representatives of orchestras cross-country joined in solidarity pledging emergency funds, buying t-shirts, and joining in media campaigns. “We don’t even think twice: if our orchestral colleagues are in trouble, wherever, whenever, we join in to support them. We would never hesitate to spread the word and take their message home with us. It certainly would not be uncommon to see New York Philharmonic musicians sporting Fort Worth t-shirts to get the message out: when one orchestra bleeds, we share the pain collectively.”¹⁰⁵⁵ In addition, U.S. orchestras are often on the lookout to hire substitute players from the ranks of orchestras in dire straits. “When Detroit was in deep crisis, the Dallas Symphony saved my life by offering me a musical home and a financial safe haven.”¹⁰⁵⁶



Representatives of pan-U.S. orchestras sport their Support the Musicians of the Fort Worth Symphony gear ICSOM Conference Washington D.C. 2016.

10.23 The Metropole Orchestra’s reorganization aftermath

Certainly not out of sight-out of mind: the fate of the nonclassical radio orchestra, the Metropole Orchestra, following the 2012-2013 radio orchestra reorganization,

¹⁰⁵⁴ The ICSOM annual conference August 24-27, 2016 took place in Washington D.C.

¹⁰⁵⁵ Conversations with Martin Andersen, violist New Jersey Symphony, active ICSOM representative, and expert in musician-union issues.

¹⁰⁵⁶ Conversations with Emmanuelle Boisvert, former concertmaster Detroit Symphony at present, associate concertmaster Dallas Symphony Orchestra.

deserves mention. Faced with certain destruction, the orchestra organized proactive protests: orchestral flashmobs and social media posts. Eventually public outcry was rewarded with a bridge grant calculated at 50% of the orchestra's budget to provide incentives for the orchestra to seek remuneration through commercial activities. In May 2018, the Metropole Orchestra announced that due to the cutbacks in previous years, the orchestra's international top position could not be maintained, despite its own high income. Musicians bore the brunt of cuts. "Faced with more cuts, we agreed to sign 50% employment contracts. This was certainly a blow not only obviously in terms of personal finances but also with regard to maintaining our orchestra's quality."¹⁰⁵⁷ An additional subsidy of €1 million was earmarked for the orchestra in 2019: €750,000 euros assigned by a supplementary €50 million governmental cultural incentive fund and € 250,000 from Hilversum's municipal budget. "Even though the Metropole Orchestra is one-of-a-kind, truly a treasure, the crisis should have brought the message to all who love music – excellence does not bring in enough money to operate properly. The orchestra was left adrift, given the message from the Hague to 'act like an American orchestra and go commercial.' Take note, this is almost impossible, to change from a subsidized orchestra to a commercial band. An ensemble of this caliber needs a great deal of funds to continue to make musical headlines."¹⁰⁵⁸

10.24 Post-mortems in Dutch reorganized orchestras

Looking back on the emotional roller coaster that accompanied the dismissal procedure, the closing chords for the RKF 2012-2012, it is telling to note that almost no attention was paid to the fate of the radio orchestras' cadre of freelancers, the extra players called in to substitute, often at the last minute, to reinforce or even save a performance. "Although our work lives suffered a major downturn after each and every reorganization, our lot was not of concern to official bodies such as the ministry nor was it of concern to the advisors. The unions did try to put up a fight to save the radio orchestras and made specific mention of the significant number of freelancers negatively affected. However, that fight was lost from the very beginning. If the orchestras could not be saved, how would the freelancers have been spared?"¹⁰⁵⁹

¹⁰⁵⁷ Conversations with Jan Bastiani, third trombone, and Legal and Policy Advisor Metropole Orchestra.

¹⁰⁵⁸ The late Jan Stulen was a frequent guest conductor with the Metropole Orchestra.

¹⁰⁵⁹ FNV Kiem Nieuws online 17 september 2013 "Prinsjesdag: FNV slaat alarm over cultuur in gemeenten en bezuinigingen publieke omroep." The specific quote "FNV is niet gerust op te toekomst van zzp'ers... die worden direct in hun bestaan bedreigd door de miljoenen bezuinigingen." (The FNV is quite distressed about the future of freelancers. . . whose employment is directly threatened by the millions in cutbacks). Jan Marijnissen, *supra* at fn. 879 also made mention of the plight of the freelancers. Further, quote taken from conversations with five string players who freelanced for years at the RKF pre-2012 reorganization. Their work was pared down significantly thereafter. Anonymity assured.

Music critics have highlighted a new unity, a brave new world of superlative performance and improved management for the renowned RFO and the MCO's resident chorus (GOK) within its scaled-down broadcasting entity devoted to music, the Stichting Omroep Muziek (Dutch Broadcasting Music Foundation, SOM).¹⁰⁶⁰ Nevertheless, from deep inside the newly arisen RFO cracks emerge. "We are certainly proud that not only the critics, but our audiences are really enthusiastic about the RFO. If you assure us anonymity, we could tell you many stories. Although we have a wonderful new chief conductor, a woman (Karina Canellakis, author's note) who is an energetic musician, good at bringing us together, we are still very worried about our future. This seems to be common at radio orchestras! More than five years after the last reorganization, the players from the disbanded radio orchestras (former NRSO players who subsequently became RKF members post 2005) who joined the RFO have had a very tough time. Some of our sections have had to call in mediators to break up musical quarrels! Cliques in some string sections in which 'non-original RFO members' are excluded are also objectionable - all of this seems to be a by-product of dismantlement/reorganization."¹⁰⁶¹ To add to the deeply internal issues at the RFO, "our director has been out of commission for months, suffering from a burnout and an interim director has been running the operation. And, the general manager, a former violinist in the RFO stepped down in January 2020, rumors are still flying as to how and why. These are certainly not small matters. Musicians deserve to be informed about what goes on in their organization and although we are not supposed to talk about all these issues – this tells you a lot about how we are tiptoeing towards an uncertain future hoping that our subsidy will hold up in a climate in which culture is not considered to be important to the broadcasters who support us, not to speak of the politicians in the Hague."¹⁰⁶²

10.24.1 A final farewell, a personal coda

Departing from the hard-and-fast rule, 'maintain objectivity at all costs,' a digression in the form of a personal anecdote bears repetition. On a grey day in February 2014, the author returned six months after the final RKF Concertgebouw concert to freelance in the newly reorganized RFO.¹⁰⁶³ Over two decades of camaraderie and easy-going

¹⁰⁶⁰ Stichting Omroep Muziek (Dutch Broadcasting Music Foundation SOM) set up in 2013, annual reports available at: https://www.omroepmuziek.nl/beleidsplan_en_jaarverslag/

¹⁰⁶¹ Pre-COVID 19 lockdown conversations with members of RFO, anonymity assured.

¹⁰⁶² *Ibid.*,

¹⁰⁶³ RFO schedule and freelance contract *Epilogue: Appendix 21*.

banter between colleagues seemed to have dissipated in the half year that had passed although a few colleagues passed on profuse greetings before the orchestra settled in to rehearse a program representative of diverse radio orchestra weekly fare. Stéphane Denève, an RKF favorite guest conductor led a challenging program with a French accent: Maurice Ravel's deliciously orchestrated Mother Goose Suite (*Ma mère l'oye*), Henri Dutilleux's *Métaboles*, a world premiere by the Dutch composer Bart Visman, and the crowd-pleasing *Bolero*.

According to the conventions with regard to the placement, the seating within string sections, freelance substitute players usually sit at the very back of the section unless a section leader and/or the personnel manager pass on other instructions. I was told by both the concertmaster and the personnel manager to sit at a stand in the middle of the section. My moment of truth came when a former colleague, a newly permanent member of the newly re-formed RFO asked pointedly, "what are you doing here?" as we were about to begin the rehearsal. The sentence ended with, "you are not a part of our section now, are you?" Some sort of mad thought pattern took hold of me – "what was I doing there?" As if the 26 years spent in the first violin section of the now defunct RKF was insufficient proof of my right to 'rejoin' former colleagues as a freelance substitute violinist. That pivotal moment taught me the difference between 'in' and 'out.' To quote the RKF colleague whom I cherished as my better half for over two decades: "one door closes, another opens."¹⁰⁶⁴ I walked through the studio door at the MCO for what I thought was the last time. To my surprise, the maestro passed by commenting, "qui n'avance pas, recule."¹⁰⁶⁵ Like a good section player in the incarnation of a newly minted freelance substitute player in what had been in part my orchestra, I returned to pick up where I had left off.

¹⁰⁶⁴ Caroline Woltjers, former member first violins RKF was contracted as a 50% player. The author shared a position with Ms. Woltjers for over 25 years.

¹⁰⁶⁵ In English, to stand still (or, literally 'not to move forward') is to retreat.