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Economic Comment

NBP governor's investigation 101

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The MPs of the Civic Platform filed in a motion in the parliament to put the NBP governor Adam Glapiński before the Tribunal of State. The first stage of the process will be the investigation by the parliamentary Committee on Constitutional Responsibility, which may take 6-12 months, according to the ruling coalition's MP Janusz Cichoń. The next step is either a motion of constitutional responsibility for the NBP governor (which has to be approved by Sejm's absolute majority) or cancelling the case. The former option closes the door for criminal prosecution of the same charges, the latter does not. The NBP governor cannot be dismissed before a final court sentence for a committed criminal offence or a final State Tribunal sentence banning him from holding high government posts (both options may be several years away), unless he steps down earlier (which he has ruled out in the recent FT interview). However, potentially he may be suspended once the Sejm passes the case to the Tribunal of State, even though there are different legal interpretations in this regard. In such case the first deputy governor Marta Kightley would take over his duties, although it seems not entirely clear whether it also applies to the role of the MPC chair and member.

The MPs of the Civic Platform filed in a motion in the parliament to put the NBP governor Adam Glapiński before the Tribunal of State. The move was pre-announced and follows earlier numerous declarations of the ruling coalition's politicians that they want to hold Glapiński accountable for the wrongdoing in the past. The motion for constitutional prosecution was submitted to the Sejm speaker, signed by 191 MPs (the required minimum was 115 signatures).

Please find below our quick summary of the key facts and the next possible steps in the legal procedure:

The Sejm speaker now has to assess whether the motion meets the formal criteria and if this is the case, he will pass the motion to the parliament's Committee on Constitutional Responsibility, which starts the investigation.

The [Committee on Constitutional Responsibility](#) has broad competences, it may interrogate witnesses (who are obliged to testify), analyse documents, request information from state institutions, call the support in the investigation from the Attorney General or the Supreme Audit Office (NIK).

The Committee's investigation is run behind closed doors, so it will not be broadcast by the media.

The head of the Committee immediately notifies the person being prosecuted about the allegations and the individual has **30 days to submit written explanations**.

There are no formal deadlines for the Committee's investigation. The ruling party's MP Janusz Cichoń, who has reportedly worked on the motion, suggested in Bloomberg interview that **the investigation may potentially last between 6 and 12 months** and "it will be a difficult process". So do not expect any immediate results.

The investigation of the Committee does not remove or suspend Mr. Glapiński from the office. Mr. Cichoń suggested that "the best solution (...) may be for Glapiński to resign before the probe ends", however both Adam Glapiński and Marta Kightley, the NBP first deputy governor, strongly suggested in their recent interviews that the governor is not going to step down once the investigation begins, as it would be an admission of guilt.

Once the investigation is over, **the Committee presents the report to the Sejm together with the recommendation whether to go ahead with the motion of constitutional responsibility or to cancel the case.**

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The motion of constitutional responsibility has to be approved by the Sejm (by an absolute majority in the presence of at least half of the statutory number of MPs) and then the case goes to the Tribunal of State. Then, the investigation in the Tribunal of State starts over again and may last potentially very long, even for several years. **Once the case goes to the Tribunal of State, it closes the door for a criminal prosecution of the same charges. However, if the parliament cancels the case of constitutional responsibility, the criminal investigation can be still carried on.**

According to the State Tribunal act, **at the very moment when the Sejm passes the case to the Tribunal, the person being prosecuted should be suspended from the post.** However, some lawyers argue that the suspension cannot be applied to the NBP governor, so the situation is not entirely clear, and if we arrive to this stage, potentially there may be a conflict in this regard between the central bank and the ruling coalition.

If the NBP governor is indeed effectively suspended, his duties should be taken over by the first deputy governor, Marta Kightley. However, **it is not entirely clear whether it applies also to the role of the MPC chairperson and its member, and whether Mrs. Kightley can inherit the NBP governor's voting rights in the Council in such a situation.** This issue was already a subject of legal dispute in 2010 after the NBP governor Stawomir Skrzypek has died in the airplane crash. At that time the MPC decided that the first deputy governor Piotr Wiesiołek has full competences of the NBP head, including voting rights at the MPC meetings. But some lawyers were challenging this approach. The interpretation of what happens in the case of NBP governor's suspension may be even more ambiguous.

The NBP governor can be dismissed by the Sejm at the request of the President when:

(1) he/she fails to fulfil his/her duties as a result of a long-term illness;

(2) he/she has been sentenced by a final court judgement for a committed criminal offence;

(2a) he/she has an untruthful declaration regarding his/her cooperation with communist security service before 1990;

(3) he/she has been banned by the State Tribunal from holding high government positions or functions connected with special responsibility in state bodies.

It is important to note that the request of Poland's President is needed in all those cases. Also, the new NBP governor is appointed by the Sejm at the request of the Poland's President.

Yet, it may take up to several years until (if) the final conviction takes place, regardless if it is going to be the scenario of criminal prosecution (2) or constitutional responsibility (3).

The term of office of NBP President Adam Glapiński expires in May 2028.

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