Decision on appeal with registration № PPN-01-332 / 14.06.2020 DECISION» PPN-01-332 / 2020 Sofia, 11.02.2021 Personal Data Protection Commission (CPDP) composed of: Chairman: Ventsislav Karadzhov and members: Maria Mateva and Veselin Tselkov at a meeting held on 18.11.2020 , pursuant to Art. 10, para. 1 of the Personal Data Protection Act in connection with Art. 57, § 1 (f) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Regulation / ORZD), considered on the merits a complaint reg. № PPN-01-600 / 14.06.2020, filed by R.M. The administrative proceedings are by the order of art. 38 of the Personal Data Protection Act (PDPA). The Commission for Personal Data Protection was seised with a complaint filed by R.M. against a media group (MG) with allegations of illegal processing - storage, disclosure and dissemination of personal data - names and photos, including images, in the form of journalistic articles and materials available on the website www. **** **, in particular at the specific internet address indicated in the complaint. He adds that the published information is related to the reported procedural and investigative measures concerning the accusation against him is not relevant, given the Judgment № ***** of the Sofia City Court, which found him not guilty and fully acquitted of all charges against him, therefore considers that his personal data and information contained on those web addresses should be deleted. Points out that at the date of referral to the CPDP the information in question is "no longer needed for the purposes for which it was collected or processed" and there is no legal basis for its continued processing, which damages its prestige, reputation and authority, contributes to economic losses'. The complainant alleges that he explicitly stated his objections to the media against the processing of his personal data by submitting an application for the deletion of personal data submitted on 26 March 2020. He added that the written answer received on 22.04.2020 did not satisfy him, as the media did not comply with his request, but "supplemented" the published information, which strongly contradicts and does not correspond to the intended result of the request for deletion. He claims that despite the objection, the media continues to process his personal data without a legal basis. Asks the CPDP to conduct an investigation into the case and to cumulatively apply the following measures: to order the administrator M.G. to comply with his requests as a data subject; to impose temporary or permanent restriction, including a ban, on data processing; to order the correction or deletion of personal data or the restriction of their processing in accordance with Articles 16, 17 and 18, as well as to notify the recipients to whom the personal data have been disclosed in accordance with Art. 17, § 2 and Art. 19 of the ORZD. Relevant evidence is attached to the complaint - Decision

№ **** of the Supreme Court of Cassation in criminal case **** / 2012, correspondence between the parties conducted electronically by e-mail sent on 26.03.2020 at 17:38 and 20 : 41 hours and on 22.04.2020 from 13:59. In view of the principles of equality of arms and truthfulness represented in the administrative process, M.G. was informed about the administrative proceedings instituted in the case, he was given the opportunity to engage a written opinion on the allegations set out in the complaint. In response, an opinion was expressed that the complaint was unfounded, with relevant evidence attached to it. The company informs about received on March 26, 2020 by the administrator M.G. application for deletion of personal data, subject to deletion of personal data contained in journalistic materials published on the website www. ******, relating to R.M. and the criminal proceedings against him. Inform that the journalistic materials are related to charges and criminal proceedings against the complainant and former Deputy Minister of Interior for acts under Chapter Eight, Section IV of the Criminal Code - "Bribery", which are characterized by high public danger and are subject to broad public discussion, given the involvement of an official. They alleged that the applicant's personal data had been processed for journalistic purposes, and that "the public interest in covering such acts determined the ongoing processing for the purposes of free expression and the public's right to information within the meaning of Art. 17, § 3, letter “a” of the ORZD. They inform that in connection with the latter and in assessing the specific facts of the case, the media has complied with the request to correct the information, as the materials are corrected, a journalistic note is added, indicating the fact that Mr. R.M. was acquitted of the charges for which he was subject to criminal liability. The company claims that the complainant was informed about the actions taken by the media within the statutory 1-month period of receipt of the request, by e-mail sent on 22.04.2020 to the said by Mr. R.M. e-mail address for correspondence. They added that no correspondence with the applicant had taken place after that date, including that the person had not objected to the correction of personal data. A copy of the opinion was sent to the complainant for information. Disagreeing with the arguments and actions presented by the administrator, Mr. R.M. indicates that it supports the complaint and the request for exercise of corrective powers by the CPDP. In the conditions of the official beginning of the administrative process on 12.08.2020 screen prints were made, objectified in Protocol PPN-01-332 # 5 / 13.08.2020 and appendices to it, regarding the content of related to the complainant R.M. . journalistic materials available at the internet address indicated in the complaint. No video has been found. At a meeting of the CPDP held on 30.09.2020, the complaint was accepted as regular and admissible - it contains mandatory details submitted by a natural person with a legal interest against a proper party controller of personal data within the meaning of Art. 4, para. 7 of the regulation, what quality does M.G. on personal data

published and available on the website www. ******. Given the fact that as of the date of referral to the CPDP personal data of the complainant are available on the website of the media, it is necessary to conclude that the complaint was filed within the period under Art. 38, para. 1 of the LPPD. It is referred to a competent body to rule - the CPDP, which according to its powers under Art. 10, para. 1 of LPPD in connection with Art. 57, § 1, letter "e" of Regulation (EU) 2016/679, deals with complaints against acts and actions of data controllers that violate the rights of data subjects related to the processing of personal data, as there are no the exceptions under Art. 2, § 2, letter “c” and Art. 55, § 3 of the Regulation in view of the fact that the case does not concern processing activities performed by a natural person in the course of purely personal or domestic activities and / or activities performed by the courts in the performance of their judicial functions. The negative prerequisites specified in Art. 27, para. 2 of the APC. The following have been constituted as parties to the proceedings: the applicant - R.M. and the respondent - M.G. An open hearing has been scheduled to consider the complaint on the merits for 18.11.2020 at 1 pm, of which the parties have been regularly notified. The respondent requested evidence regarding the content of the video materials to the articles available on the website www. ******. In response, the company stated that the articles had been published in 2009 and updated on 16 April 2020 with an editorial note on the final judgment in respect of the applicant. They claim that video materials to the articles are not contained as of the date sent by Mr. R.M. to M.G. request. In support of the latter, he presented evidence on the day of the open hearing. On 18.11.2020, with a letter sent by e-mail, Mr. R.M. informed that he was prevented from attending the meeting due to his absence from the country. He upheld the complaint and considered it well-founded. Attaches a power of attorney signed with a qualified signature in favor of lawyer M. from SAC. At an open meeting of the CPDP held on 18.11.2020, the complaint was considered on the merits. The applicant - regularly notified, did not appear, was represented by a lawyer. M. from the SAC, with a power of attorney attached to the file, who upheld the appeal. He does not point to new evidence, there are no requests for evidence. The respondent party - regularly notified, is represented by legal counsel R. with a power of attorney for the file. The procedural representative of the company disputes the appeal. He maintains the written opinion expressed in the course of the proceedings that the allegations made by Mr R.M. statements. It states that the videos to the articles in the proceedings do not appear on the date of the applicant's right of deletion. He claims that the videos were lost for objective reasons eight to ten years ago when they migrated from one server to another, and therefore, because they could not be read by the new server, are not included in the articles. He asks the commission to dismiss the complaint. In his capacity of administrative body and in connection with the need to establish the truth of the case,

as a basic principle in administrative proceedings, according to Art. 7 of the Administrative Procedure Code, requiring the existence of established facts, given the evidence gathered and the allegations made by the parties, the commission considers that considered on the merits of the complaint № PPN-01-332 / 14.06.2020 is unfounded. are allegations of unlawful processing - storage, disclosure and dissemination of personal data of the complainant - names and photographs, including images, in the form of journalistic articles and materials available on the website www. ******, in particular on in the complaint a specific internet address, related to the reflected procedural-investigative measures and court proceedings concerning the raised against Mr. R.M. bribery charge, which ended with an acquittal, which entered into force on April 18, 2013. From the evidence gathered in the file it was established, and it is not disputed between the parties, that the following articles are available on the website www. ******: *****. It is evident from the articles that they contain information related to the reflected procedural-investigative measures and the development of a criminal case instituted in court of a general nature concerning those brought against the applicant and the former Deputy Minister of Interior Rf.M. accusation of offering a bribe to a civil servant. It should be noted that the articles were updated on 16.04.2020 with a note added under each of the articles: “Decision of the Supreme Court of Cassation of 18.04.2013 upholds the decision of the Sofia Court of Appeal of 01.10.2012. ., which confirms the verdict of 30.06.2010 of the Sofia City Court, by which the defendants Rf.M. and R.M. were justified. " The articles contained information about the applicant in the amount of two names, first name and surname, and information that Mr. R.M. is a businessman, his capacity as a detainee, accused and defendant in the various phases of the trial is also stated. An image of the complainant was published in four of the articles published on 30 June 2010, 22 November 2010, 25 March 2011 and 22 June 2011. The information published about the complainant has the character of personal data about the person, insofar as through it the same can be indisputably individualized. The processing of personal data by publishing them on the site in view of the manner of dissemination and unrestricted access to information published in it is an action of personal data processing within the meaning of § 1, item 1 of the TFP of LPPD as amended. 91 of 2006 of the State Gazette, respectively Art. 4, § 2 of Regulation № 2016/679. The site, given the nature and frequency of its publications, as well as unrestricted access to it, has the character of electronic media, and the published information is used for journalistic purposes. In this connection, the personal data of the complainant were processed, in the case of their dissemination, to an unlimited number of persons by means of procedural publications. It is indisputable that personal data are published without the knowledge and consent of the person, but the same is not relevant in processing - publishing personal data for journalistic

purposes. In connection with the latter and although it is not the subject of the proceedings instituted in the CPDP, for completeness, it should be noted that as of the date of publication of the procedural articles the processing of the complainant's personal data is lawful under Art. 4, para. 2 of LPPD (revoked) insofar as it was performed solely for the purposes of journalistic activity and does not violate the right to privacy of the person given the existence of undisputed public interest in the course of the process and until its completion on 18.04.2013 on the one hand and by another exercise of the right to freedom of expression and the right to information, moreover that the published personal data are minimized and to an extent that does not violate the right to privacy of the person. It is not possible to share the complainant's view that the data mentioned in the publications damage his prestige and reputation, as far as it is evident from the content of the articles and in particular the editor's note, they objectively follow the development of the process. in the articles are minimized - two names of the complainant, and in four of the articles and his facial image. In this regard, and as the facts published by the media are accurate and objective, the Commission has no reason to consider the actions of the media, in its capacity as controller of personal data, as unscrupulous. It is evident from the evidence gathered in the case file that the applicant had exercised his right under Art. 17 of the ORD with an application for deletion submitted to the site administrator, and the actions taken by the administrator are reduced to the note introduced on 16.04.2020 regarding the acquittal. The actions of the controller meet the requirements of the law - meet the principle of good faith and transparency and the principle of accuracy of data processing, as it accurately and objectively reflects the information, such as the role of the media. There are no images or videos that tarnish the prestige of the person. The information is covered for journalistic purposes, in the new factual situation. The concept of "journalistic goals" is not defined by the legislator, but is discussed in detail and interpreted in case law. The essential thing for the journalistic activity is the collection, analysis, interpretation and dissemination through the mass media of up-to-date and socially significant information. In this regard, the exercise of the right to erasure in each case should consider the balance between the right to privacy of the individual and the right to public information. It is indisputable that as of the date of publication from 2009 to 18.04.2013 the articles were of public interest and are an expression of the right to public information on current and current issues, and insofar as they are processed for journalistic purposes the publication of personal data of the applicant is lawful by argument of Art. 4, para. 2 of LPPD (revoked) - carried out only for the purposes of journalistic activity and the hypothesis of undisputed public interest in the course of the process and until its completion on 18.04.2013. However, according to the ECtHR , but also has the right to be informed of past events. The Court emphasizes the benefits of the

Internet, which enables the public to access this information, and concludes that the media's mission in helping to shape public opinion includes the obligation to provide the general public with access to information about the past stored in their archives, but where the availability of articles still contributes to public interest debates that have not disappeared over time, insofar as the scope of the public interest in criminal proceedings is still variable and changes over time depending on the circumstances and outcome of the case. In this connection, it should be assessed with regard to information on criminal proceedings against the person, which information relates to an earlier stage of that proceedings and no longer corresponds to the actual situation, whether in the light of all the circumstances of the case. such as the nature and gravity of the accusation, the development and outcome of the proceedings, the time elapsed, the public interest at the time of the request for deletion, the content and form of the publication, and its implications for the subject data, the person has the right not to be associated with his name. In this case, the processing of personal data in the specified volume, through articles available through the company's website, is justified in view of the need for the right to information and exercise the right to freedom of expression. In this regard, it must be concluded that the refusal of the controller to delete the personal data contained in the articles is lawful given the existence of a derogation within the meaning of Art. 17, § 3, letter “a” of the ORD of the obligation of the administrator under Art. 17, § 1 of the ORZD in case of a request for deletion and an objection received in this direction to delete the personal data of the person. In view of the editor's remark, the administrator's reasoning can be shared in the direction that the complainant's personal data are processed for journalistic purposes, and "the public interest in covering such acts determines the ongoing processing for free expression and public information. within the meaning of Art. 17, § 3, letter “a” of the ORD. The journalistic materials are related to the charges and criminal proceedings against the complainant and former Deputy Minister of the Interior for acts under Chapter Eight, Section IV of the Penal Code - "Bribery", which are characterized by high public danger and are the subject of wide public discussion. , given the involvement of an official. Currently, the focus of the right to information and the public interest has shifted - the right to information and the public interest after 2013 is to announce that the person is justified, as it testifies to the development of history from a journalistic and objective point of view and is an expression of the right to awareness, especially as it concerns the work of the judiciary. A balance has also been achieved between those guaranteed under Art. 10 of the European Convention on Human Rights (Right to respect for private and family life) and, on the other hand, Article 8 of the Convention (freedom of expression), as the legitimate public interest in to public archives of the press given the right to information. Guided by the above and on the grounds of Art. 38, para. 3 of the Personal Data Protection Act,

the Commission for Personal Data Protection, HAS DECIDED: Dismisses complaint PPN-01-332 / 14.06.2020 as unfounded. The decision is subject to appeal within 14 days of its service through the Commission for Personal Data Protection before the Administrative Court Sofia - city. CHAIRMAN: MEMBERS: Ventsislav Karadzhov / n / Maria Mateva / n / Veselin Tselkov / n / Files for download Decision on appeal with registration № PPN-01-332 / 14.06.2020