

Assessment of Impartiality

- Principles Applied by FINAS

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FINAS Finnish Accreditation Service

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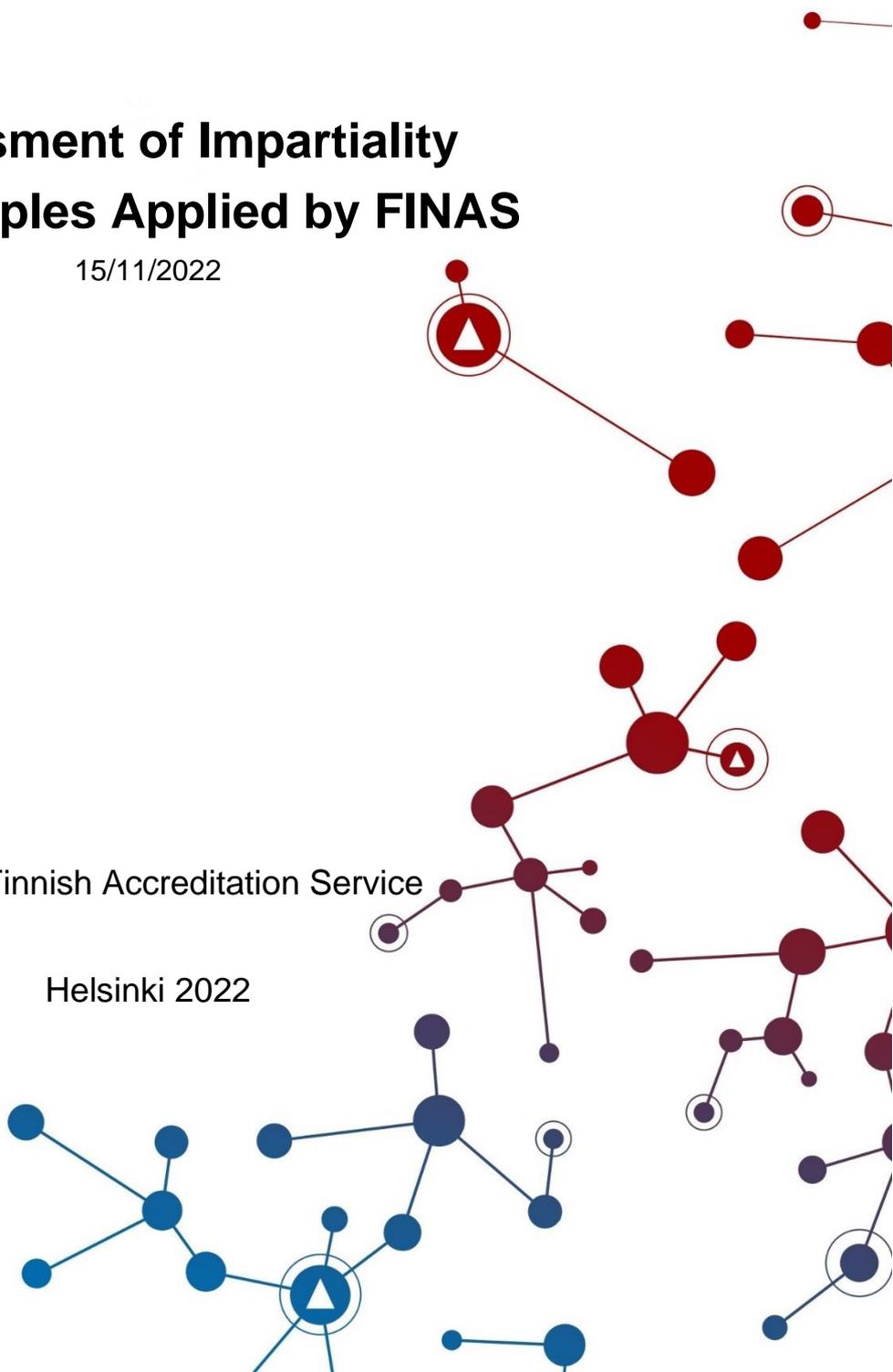


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1 Foreword

The original policy document for FINAS was drawn up by a working group appointed by the Advisory Committee for Conformity Assessment Matters, Subcommittee for Accreditation Matters (VANK-P). The new version A8/2021 replaces the previous version A8/2016. This policy takes into account the completion of the delivery of FINAS Leaflet 10. In addition, the examples used in the policy have been reviewed.

The purpose of the policy documents is to clarify the application of accreditation requirements in practice. They have been drawn up taking into account the principles agreed within the international cooperation organisations of accreditation organisations (European co-operation for Accreditation (EA), the International Laboratory Accreditation Cooperation (ILAC), and the International Accreditation Forum (IAF)).

The requirements for accreditation are set out in Decision P1. Information on the policy documents and binding guidelines are available on the FINAS website (www.finas.fi).

2 Introduction

The requirements for impartiality to be complied with in accreditation activities are always based on requirements presented in international requirement standards underlying accreditation and in the legislation pertaining to the operations being assessed.

This policy document discusses the identification, analysis and elimination of risks associated with impartiality and independence. The various manifestations of impartiality are presented by means of examples.

3 Assessment of impartiality, concepts and vocabulary

This section describes the various actors in conformity assessment and their tasks. In addition, an effort is made to open up and clarify the vocabulary pertaining to impartiality. Laws and regulations often use different terms for the various attributes associated with impartiality even though they mean the same thing.

3.1 Perspectives on the assessment of impartiality

Operators operating in different sectors need to take different measures to secure impartiality. The operator's task or role must also be taken into account.

At inspection bodies, the operating environment determines the procedures for ensuring impartiality. Inspection bodies are divided into three types in terms of impartiality requirements.

- An inspection body of type A is independent of the parties involved in the activities, i.e., "a third party".
- An inspection body of type B conducts inspections for the parent organisation and is a separate element of the organisation.
- An inspection body of type C can conduct inspections for both the parent organisation and outsiders. The inspection body must ensure that there is sufficient distance between the responsibilities for inspections and other operations.

Inspection bodies may work in a voluntary sector or they may perform statutory tasks. In the latter case, their role is defined according to the relevant statute.

Inspection bodies conduct conformity assessment against the requirements that have been documented.

As a rule, **certification bodies** are impartial third-party actors and operate generally in the voluntary sector, but they can also operate in the regulated sector, for instance, as a notified body. Certification organisations assess products or systems usually by comparing the object against a model derived from standards. The structure of certification organisations must enable the involvement of stakeholders (a committee monitoring impartiality/independence). Stakeholders ensure the impartiality of certification by influencing the definition of principles and procedures.

Verifier organisations are equated with third-party actors in terms of impartiality requirements. The verifier organisation must have a mechanism to ensure impartiality and to identify conflicts of interest. This mechanism may be a committee like those of certification bodies, or some other arrangement.

In testing and calibration, the primary objective of ensuring impartiality is to ensure the integrity of results. However, testing laboratories may also be expected to act as a third party, for instance, when they serve as notified bodies.

Proficiency testing providers are providing external proficiency tests for

laboratories and inspection bodies. Customer results are handled objectively and impartially. A special feature in providing proficiency testing is that external expert are used. It is essential to ensure the impartiality of all the experts.

Aside from the above bodies, it is possible to identify actors in conformity assessment that are expected to be impartial but that are not subject to accreditation and assessment of competence. Examples include persons determined to be competent (an authorised person, an approved expert), consultants and consultancy.

3.2 Manifestations of impartiality

3.2.1 Objectivity

- With regard to the operator's activities, objectivity primarily means the fair and equal treatment of customers. The operator's activities are objective.

3.2.2 Impartiality

- **Financial impartiality**
The proceeds from the operator's activities cover the costs of activities. Activities are not dependent on, or supported by, the organisation's other operations. An initial outlay of funds may be needed when new activities are launched. However, the operator must have a plan for attaining financial impartiality.
- **Operational impartiality**
Tasks are not linked to the organisation's other tasks or services, e.g. through joint pricing, marketing, sales or supply.
- **Organisational independence and impartiality**
The operator must be impartial in decision-making pertaining to tasks. Within the organisation, the operator may not be placed in a position or in a chain of command that is in conflict with impartial operations. This may concern, for example, an inspection body of type B.
- **Objective impartiality**
There is no justified suspicion about the operator's activities; in addition to subjective knowledge and experience, the activities must also appear to be impartial to outsiders.
- **Subjective impartiality**
In the operator's own view, its activities are impartial.

- **Internal impartiality**
Comprises the various functions within the organisation and how they have been separated so as not to endanger the impartiality of inspections (testing, certification, other services).
- **External impartiality**
Comprises other (prohibited) tasks outside the organisation (planning and comparable consulting, manufacture, supply, installation, operation, servicing, ownership).

3.2.3 Threat of self-interest, threat of checking one's own work

- These are associated with financial or other conflict of interest, such as a direct or indirect interest in a customer, excessive dependence on fees paid by the customer, fear of losing the customer, ties between salaries, and the number or outcome of contracts.

3.2.4 Threat of proximity (or loss of trust)

- A prolonged or close relationship with the customer may cause an overly positive attitude or excessive trust in the information provided by the customer and lack of objectivity.

3.2.5 Threat of pressure

- An influential customer pressurises or threatens.

In addition, there are many expressions and terms associated with impartiality that are not defined in more detail here, e.g. disqualification (Administrative Procedure Act, Section 28), objectivity, professional integrity, autonomy, sovereignty, authority, freedom of decision-making, openness.

4 Importance of impartiality in conformity assessment

Impartiality is one of the most important means of confidence-building. Competent operations are the starting point for the validity of results. An impartial party is used when the objective is to ensure or show the validity and reliability of results. Examples include the use of an external testing laboratory to show that the requirements set for a product are met, the role of notified bodies in proving conformity, or a certification organisation's verification that a company's quality system conforms to a standard.

Conformity assessment is conducted so that the various parties to all types of activities (service provider, customer, user of the results, other external

bodies) can trust each other. It is therefore required that assessors of conformity are impartial of the objects assessed and of other parties participating in the activities. In consequence, impartiality is a crucial factor. Conformity assessment for which there is no impartiality requirement is outside the scope of this document.

Impartiality is not a simple concept; it is manifested at different levels. The level of independence may vary depending on the service provided by the operator, or it may also be associated with the product's life cycle, such as the use of notified bodies when the product reaches the market, and the use of inspection bodies when products are on the market (maintenance of safety).

Traditionally, the impartial party's activities have been linked to safety or to the fulfilment of environmental requirements; for instance, the testing of food, the purity of water for swimming, or the inspection of lifts. An impartial party is also used to verify the correctness of information (verifiers); for instance, information on the emissions of greenhouse gases or the proportion of renewable energy in power generation.

In its simplest form, impartiality appears at a production plant where testing is conducted separately from production. In such a case, testing as an activity impartial of production ensures the fulfilment of the producer's own requirement. The other extreme consists of actions conducted by a fully impartial third party that are required by law or that the operator wants to use voluntarily. Examples of this include the activities of notified bodies in the regulated sector, and certification in the voluntary sector.

To an increasing extent, official tasks have been transferred from the authorities to commercial operators or otherwise outside the official organisation. Such operators have a public administrative function and they are partly equated with the authorities, e.g. as concerns the requirements applied to them. In addition to being sufficiently competent, operators are expected to review and prove their impartiality. Examples of such operators are inspection bodies, e.g. for lifter and fire extinguishing equipment, and certified vehicle experts, GHG verifiers and notified bodies.

When these organisations carry out statutory tasks, they are partly subject to the same requirements as the authorities. In such a case, the tasks defined by legislation and other relevant activities must be implemented in compliance with the requirements pertaining to the discharging of public administrative tasks (e.g. the Administrative Procedure Act, the Act on the Openness of Government Activities, the Act on Archives, the Language Act, the Act on Electronic Services and Communication in the Public Sector, the Criminal Code Chapter 40 on offences in office).

Apart from the new tasks introduced through legislation, other changes are also taking place in the operating environment of operators. Operations are rapidly becoming international in many sectors; the resulting new types of issues also have an impact on impartiality. Likewise, the assessment of impartiality faces new kinds of challenges.

Some operators are large, internationally active organisations whose multifarious commercial and other interests must be considered when impartiality is assessed. On the other hand, there are newly established small operators where the review of impartiality mainly concerns relations at a personal level.

5 Central elements of impartiality

The risks to impartiality listed below have either been noted in FINAS assessments or are considered potential risks.

Laboratories:

- the personnel's other tasks, for instance, a dual role for the person in charge (as the approving authority and as the person in charge in the laboratory)
- pressures caused by production or other operations
- pressures linked with being a customer
- linked subcontracting
- the status of an industrial laboratory in official supervision

Inspection bodies:

- other tasks assigned to the organisation and personnel (planning, consulting, maintenance)
- ownership (e.g. a separate company, but owned by the manufacturer of the product)
- agreements (cooperation, e.g. with a maintenance firm)
- arrangements for subcontracting (indistinct division of responsibility)
- use of external resources (working relations, physical distances)

Certification organisations:

- training (training customised according to each customer's needs)
- substantial use of external resources and the interests of these persons
- consulting (activity serving the customer's interests – may conflict with impartial activities)
- paying a fee for new customers
- conducting internal audits on behalf of customers

Verifier organisations:

- other tasks assigned to the organisation or personnel, such as planning or expert tasks
- financial or other pressures (the activities are of great economic importance and the customers are large companies)
- consulting (activity serving the customer's interests – may conflict with impartial activities)
- risks associated with being a customer (the importance of being a customer in other activities)

Proficiency testing providers:

- other tasks assigned to the organisation or personnel
- substantial use of external resources and the interests of these persons
- pressures caused by schedules
- subcontracting

Assessment focuses on the realisation of independence and impartiality at the organisational level (separate organisation, joint management, "chain of command", organisational structure, e.g. matrix organisation), at the individual level (other tasks, interests, etc.) and at the operational level (the relationship between other tasks and activities requiring impartiality).

The equal treatment of customers is closely related to impartiality.

Some sectors (e.g. certification) require that the assessment also ensures the participation of stakeholders in the process of ensuring impartiality.

6 Application of the policy document, examples

Risk assessment conducted by the operator itself can be regarded as the key assessment principle. In risk assessment, the operator shows that it has recognised the essential risks associated with the impartiality of its operations. Thereafter it is determined whether the risk associated with impartiality can be accepted or whether precautions must be taken to minimize or eliminate the risk. This is followed by a decision on the precautions that are applied to bring the risks down to an acceptable level. The precautions decided upon are carried out. All assessments, reviews and decisions made, as well as the implementation of the decisions, must be documented. The monitoring and supervision of compliance with the precautions is a very important element. Although it can be done in-house, in very small organisations it may be necessary to use an outside expert. The management of impartiality must encompass the accreditation requirements and the restrictions placed on operations. Operators must have mechanisms for continuously ensuring that the interests held by internal and external resources or subcontractors do not involve a risk to impartiality.

Examples of risks to impartiality in various sectors and in different types of operators are presented below.

The laboratory of an industrial facility in environmental health monitoring

- The accreditation standard SFS-EN ISO/IEC 17025, 4.1.3 requires that the laboratory is impartial.
- Accreditation notwithstanding, situations where the laboratory would analyse samples taken by the authorities of the facility or its products, or a competitor's corresponding samples, could arouse great suspicions concerning impartiality, at least among outsiders.
- Analysis services for self-monitoring samples can be sold to other facilities.
- On the other hand, the fact that there are no obstacles to using an industrial facility's laboratory for official supervision has been found to be a good thing in individual situations; for instance, if there is an urgent need and other laboratories are located far away.

The impartiality of laboratory personnel when persons have different roles

- In Finland, there may be situations where laboratory personnel also act in decision-making bodies, e.g. supervision in tasks of municipal or state supervision. For instance, a laboratory chemist also works in environmental health supervision, the laboratory manager is simultaneously the head of environmental health supervision. Sometimes people in dual roles also make decisions in both roles (e.g. as a supervisor and as the person responsible for the analyses).
- Disqualification is not usually associated with the position, but instead is specific to each situation.
The difficulty stems from the fact that the same person acts in two different roles. In such situations, the person must recognise the grounds for disqualification referred to in section 28 of the Administrative Procedure Act and, whenever necessary, declare themselves disqualified.

Impartiality of inspections in relation to servicing and how to resolve links between servicing and inspection

The periodic inspection of lifts and lifting doors as an example

- Case 1: The customer requested competing tenders for the servicing of lifts from maintenance firms. The competitive tendering was won by Maintenance Firm A, whose tender also included scheduled inspections, as required by the terms of the competition. In this model, Maintenance Firm A manages the inspections with an inspection body of its choice. The invoices go to Maintenance Firm A, which selects the inspection body. The customer is among the largest in the region, and is locally significant.
- Case 2: Maintenance Firm B for lifting doors provides its customer with a fixed-price package where responsibility for doors is transferred to the maintenance firm. The package includes the statutory periodic inspections that Maintenance Firm B orders from an inspection body of its choice.

In both cases, the maintenance firm orders the work and uses decision-making power when the inspection body is selected and when the inspection times are set. The results of inspection (records) and invoices are addressed to the maintenance firm.

- The requirements for inspection bodies of Type A laid down in SFS-EN ISO 17020 apply to the inspection bodies in the examples. The standard also presents the independence requirements (Annex A).
- As maintenance in this sector is highly concentrated, individual

maintenance firms can be considered to have great influence. Inspections are generally seen to be independent. Acting as a subcontractor for the maintenance firm may undermine confidence in the inspection body's independence, nor does it meet the independence requirements laid down for inspection bodies of Type A.

- Periodic inspections are conducted in accordance with decree 1434/2016 issued under the Electrical Safety Act. The periodic inspection must ensure, among other things, that it is safe to use the lift and that the lift has been serviced according to the maintenance programme.
- This inspection also gives the owner of the lift an assessment of how well the maintenance firm has followed the maintenance programme. The inspector's decision may have an impact on the maintenance firm's business. In such a situation, there could be the risk of someone influencing the outcome of the inspection (for example, a note that the lift has not been serviced according to the maintenance programme causes problems for the maintenance firm).
- In terms of independence, the various actors in the inspection (owner, maintenance firm, inspection body) have clear-cut roles based on the requirements laid down in statutes. The agreements made between the various actors help clarify the roles and tasks (e.g. a servicing agreement between the maintenance firm and the lift owner, an inspection agreement between the lift owner and the inspection body).
- The maintenance firm has a role defined in law, which the inspection body monitors to the extent determined by the relevant statutes. In the commercial sense, the maintenance firm cannot be considered a representative of the customer vis-à-vis the inspection body. The inspection records are always given to the owner or the owner's representative, while the maintenance firm receives a copy. In addition, the invoice is addressed to the lift owner directly; it is not handled through the maintenance firm.

The examples with the lift and lifting doors illustrate the "one-stop shop" principle, which has also spread to other fields, such as the verification of fuel meters. This practice occurs in other sectors as well and is likely to increase as service and maintenance are outsourced. The ensuing problems include the lack of transparency, inadequate disclosure of inspection prices, and a situation where the inspection body's direct link to the maintenance firm may pose a risk to impartiality (overly strict inspection, which means more work for the maintenance firm, or the maintenance firm expects the inspection body to approve the maintenance because the firm does not want to do extra work within

its fixed-price maintenance agreement).

Several functions or services requiring impartiality are located in the same organisation

Organisations have grown over the years and new organisations have also been established. Larger organisations have been created, for instance, by merging previously unfamiliar organisations in connection with business acquisitions, or by gathering together units doing similar tasks within an existing organisation.

- Synergy has often been seen as an important motive; thus, the new large organisations created generally do similar things.
- The tasks may include certification, conformity assessment conducted as a notified body, type inspections, in-service inspections, or some other activities supporting these tasks (testing or analysis).
- In some cases the various functions within an organisation, which themselves require the verification of impartiality, constitute an impartiality threat to each other. A recurrent example could be the coexistence of product certification, system certification and inspection activities within the same organisation, where they are implemented using partly the same resources.
- Often these problems have been resolved by drawing strict boundaries between departments or even between companies.

Problems in reconciling competence and impartiality

Persons within an organisation exchange duties among themselves: they consult, service, plan and assess. For inspection bodies of type A, this does not meet the independence requirements criteria.

- Within the same organisation, person A consults or services and person B assesses or inspects company X, whereas for company Y, persons A and B switch roles. Tasks are exchanged, which means that people assess their colleagues' work when the impartiality of a third party needs to be guaranteed, independence and impartiality must be examined more widely than at the individual level.
- A company asserts that its employees are competent to inspect certain products because they also design them. In their opinion, they guarantee independence by not inspecting products that they have designed themselves. In practice, inspections are conducted on products

designed by competitors (problem: competitors' solutions are not approved, or by taking on an inspector's role, one tries to obtain information about the competitor's solutions that would not be available otherwise).

Use of external resources in an organisation

- People's other work tasks and links may be difficult to verify and assess.
- It is not always clear if a person is in the right role as a representative of the organisation.
- It may be difficult to obtain information about the interests of people's employers (if other than the inspection body).

There must be explicit agreements on the use of all external resources. These agreements specify the rights, duties and any restrictions that the persons/organisations may have. When providing information, both contracting parties must take care not to pass on misleading information.

Matrix organisations

- A person has different supervisors for different tasks; allocation of resources (time) may then be problematic.
- The activities being assessed have little importance for business; in such a case, special features may not be taken into account adequately.

In these situations, assessment is used to determine who decides on personnel resources and to ensure that personnel resources and reporting chains are clear. At a sufficiently high level, the organisation must be committed to the requirements that the operations are expected to meet.

Virtual organisations

- Resources are not known or the persons have not been designated in advance. Instead, it is thought that the necessary expertise is gathered when the need arises.

The assessment of competence is impossible without designated persons; determining the chain of command should also be clear. The set of persons among whom the participants are selected must be defined unambiguously in order to enable the analysis of risks to impartiality.

Pressure on persons participating in conformity assessment or other risks

- People must have enough time to complete their tasks with due care.
- Equal treatment of many customers even if some customer is more active/more demanding than the rest.
- Even when the work is done as piecework, there should be no temptation to minimise the time used for the task.

The operator must identify risks of this type and define the means for eliminating them.

7 Summary and conclusions

Standards used in different sectors as accreditation requirements define independence and impartiality criteria at different levels. This is partly because of the diversity of operations, partly because of the spirit of the time when the standard was drafted. It can be seen, however, that requirements are gradually becoming more pragmatic.

Changes in legislation have encouraged new kinds of conformity assessment operators to enter the market. Public administrative tasks are assigned to private and commercial operators. This means that tasks are performed by operators that have no previous experience of conformity assessment services. On the other hand, the requirements of indirect State administration and their application to operators have become clearer over the years, as statutes explicitly state the legal requirements that operators must comply with, in addition to special legislation.

Internationalisation and networking have brought new elements to the assessment of impartiality. The outsourcing of processes and increased subcontracting also pose challenges alongside longer supply chains.

Amidst these changes, independence and impartiality have become important requirements so that various parties acting in society can trust each other.

This publication has examined the concepts and assessment principles of independence and impartiality, classified according to the type of service produced by the operator and whether the activities are statutory or voluntary. The requirements and potential risks in the assessment of impartiality have been examined both in the light of international standards and with the help of a few practical examples.

The reviews have not revealed any shortcomings in standards or in national guidelines. Nevertheless, practical experience shows that ensuring independence and impartiality occasionally leads to problematic situations.

A generally encountered factor, and perhaps the most important risk to independence and impartiality, consists of the services outside actual activities that are provided by the operator, its parent or subsidiary organisations, or other entities having a close contractual relationship with the operator in question. The risk resulting from these functions is also seen in many examples.

The main conclusion is that operators can be encouraged to plan and apply customised means to eliminate risks endangering impartiality. The examples presented provide guidance on concrete risks and how to eliminate them. The means to be implemented vary according to the type of operator and the sector involved.

8 Changes from the previous version

Changes 15/11/2022

	Chapter	Change
1	Foreword	FINAS Leaflet 10 ceased. The corresponding information is available on the www.finas.fi website.
2	Introduction	A reference to an older publication issued in 2002 removed.
3	Assessment of impartiality, concepts and vocabulary	Terms updated and harmonised.
4	Importance of impartiality in conformity assessment	The header and content updated, and terms harmonised.
5	Central elements of impartiality	No changes.
6	Examples of the application of assessment principles	Terms updated and harmonised. Section 'The laboratory of an industrial facility in environmental health monitoring' updated.
7	Summary and conclusions	Terms updated and harmonised.
8	References	Removed.
9	Changes from the previous version	New header added.