

术语分歧 (Terminological Divergence)

Foundations • The Valuation Engineer

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形式定义。 术语分歧是指不同法律体系的评价词汇之间未能建立一对一对应关系。在本系调研的材料中，其常见形式有五种：等价词缺失，即某体系从未用单个术语来表述某个概念；方向性配对，即一个体系将“增加”和“减少”分别命名，而另一个体系则使用一个中性名词——或者，沿着同一维度进一步发展，干脆不使用名词，而是由动词来承载该规则；同一词汇指代不同的所指；机构名称在翻译中无法保留原意；以及 历法纪年。前三种属于词汇上的差异；后两种属于指称上的差异——即某机构在特定日期所用的名称，以及记录该日期的历法。缺少对应词并不意味着另一系统缺乏该概念：它可能通过多个术语、一个动词或一种法律机制来表达该概念。差异在于两个系统之间的关系，而非任一系统的缺陷。

The scheme 在本刊各语言中的表述。 所列对应语为该法域估价或征收文献中最常用者；两者并用时，一并列出。

UK ENGLISH	the scheme (British and Commonwealth; in England and Wales the disregard is now the statutory no-scheme principle, Land Compensation Act 1961, s. 6A; elsewhere in the Commonwealth the Pointe Gourde rule)
AMERICAN ENGLISH	the project (its disregard is the project-influence, or scope-of-the-project, rule)
GERMAN	das Vorhaben (modern); doctrine: das Unternehmen
FRENCH	l'opération
SPANISH	el proyecto de obras (mod. la actuación)
PORTUGUESE	a obra / o melhoramento (Brazil)
TURKISH	imar ve hizmet teşebbüsü
ARABIC	المشروع (al-mashrū'; Maghreb: العمليّة / الأشغال)
RUSSIAN	объект (obyekt; no single-word equivalent — see text; проект is a false friend)
JAPANESE	事業 (jigyō, arts. 2–3 — statutory term of art)
KOREAN	공익사업 (gongik saeop, art. 2(2))
CHIN. (TR.)	興辦事業 (xīngbàn shìyè, arts. 3, 13)
CHINESE (SIMP.)	建设活动 (jiànshè huódòng; collective noun — no term of art as a valuation reference, see text)

Value effect 在本刊各语言中的表述。 所列对应语为该法域估价或征收文献中最常用者；两者并用时，一并列出。

UK ENGLISH	betterment / depreciation (statute: an increase or decrease in value attributable to the scheme)
AMERICAN ENGLISH	project influence (enhancement or diminution in value caused by the project; a diminution before the taking is also called condemnation blight)
GERMAN	die Wertänderung (pair: Wertsteigerung / Wertminderung)
FRENCH	le changement de valeur (statute: neutral changements de valeur, L. 322-2; of the pair, only plus-value; moins-value is scholarly usage)
SPANISH	la plusvalía (enhancement only; hope value, the British term for value from the prospect of a future permission, such as a rezoning, not yet granted: expectativas)
PORTUGUESE	a valorização / a depreciação (Brazil; Portugal: mais-valia, Código das Expropriações art. 23(2), verified)
TURKISH	değer artışı / değer düşüklüğü
ARABIC	الزيادة / القيمة في النقصان (al-ziyāda / al-nuqṣān fī al-qīma)
RUSSIAN	изменение стоимости (pair: прирост / снижение стоимости)
JAPANESE	価格の変動 (an ordinary phrase, not a term of art; scheme benefit: 起業利益, art. 90)

KOREAN	가격의 변동 (art. 67(2); also 지가의 영향, art. 70(1))
CHIN. (TR.)	增值 / 減損 (also 漲價 / 貶值; no equivalent noun — see text)
CHINESE (SIMP.)	增值 / 贬值 (pair in practice; no scheme-disregard rule — see text)

直观说明。本条目的讨论背景是语言学和比较语言学的：它涉及词汇——即在语言边界处，估值术语会发生什么变化——而非任何法律体系的实质内容，且专为在不同司法管辖区撰写或阅读评估报告的估价师而写。在本文讨论的所有法律体系中，估价对象均为强制征收（征收；在美国术语中称为“*eminent domain*”）及其估价规则。

一位从事跨境估价工作的估价师遇到了这种问题最危险的形式：不是某个词无法翻译——这种失败会显而易见——而是某个词虽然能顺畅地翻译出来，却被套用到了错误的对象上。俄语词 *проект* 看起来像“project”，且被所有词典收录；但在法律语境中，它指的是设计文件——即图纸和文书——而非为之征地的项目。若用该词搜索该“方案”，找到的却是一堆工作表。这种翻译在词汇上看似合理，但在功能上却是错误的。

因此，本条目所阐述的学科并非翻译，而是对齐：在将一个术语跨越边界之前，先确定该术语在本语系中发挥什么作用，然后询问这一作用在另一语系中如何体现——这可能是另一个词、一个组词、一个动词短语，甚至可能什么都不是。下文的五个部分对对齐失败的情况进行了分类，因为这些失败，与词汇不同，数量有限且反复出现。

对应规则。正确的翻译未必是字面最接近的词语。而是指在另一法律体系中发挥相同功能的术语、表述或法律机制。看似合理的翻译并不等同于法律等效性：两种表述可能自然地翻译成相同的英语短语，却指代不同的规则；而且，可用的翻译本身绝不能作为两个法律体系一致的依据。

本文中关于某份指定文书的所有陈述均已根据本期原始文本进行了核实，但脚注中注明了其他来源并标有短剑符号的情况除外：即转录本、汇编镜本、实务者评注或新闻报道。脚注标记：[P] 主要官方文本；[T] 转录本；[M] 汇编对照本；[C] 实务评论；† 未与原始文本核对。若某表格已报告至相关部门但尚未核实，则予以刊印并标注为“待定”；若某语言版本的核实工作仍在进行中，则对空白处予以标注而非填补。本条目绝不断言两个体系一致：表格中的两行可能看起来相似，读者可以进行比较，但措辞的相似并不意味着法律的相同。

估价实务中何处遇到。1. 缺失的对应词。一种语言体系中，某个概念有一个专有名词，而另一种语言体系中则没有——但这并不意味着后者缺乏该概念。最明显的例子是“征用权”（*eminent domain*），这主要是美国特有的术语；通用术语是“强制收购”和“征收”，而面向美国以外地区的报告应使用这些通用术语。

更深层的情况是该方案——英联邦法中用于指代其对价值的影响应予忽略的工程（参见公共项目及其对价值的影响）——这种忽略正是美国实务中所称的“项目影响”或“项目范围”规则。在英联邦和美国以外，只有日本和韩国对该工程项目有一个单一的法定术语；其他地方则将其拆分为两部分。德国将其拆分为：现代用法称 *das Vorhaben*；法学传统（在大陆法系国家，“学说”指法学家的著述，有别于判例法）则称 *das Unternehmen*，该表述保留于 § 87 FlurbG (*Unternehmensflurbereinigung*)；¹，且该忽略规则完全不以特定方案为依据，而是基于征收本身产生的效果——§ 95(2) Nr. 2 BauGB 排除了“Wertänderungen ... infolge der bevorstehenden Enteignung”（因即将发生的征收而导致的价值变化），² 法律学者和法院将此称为 *enteignungsrechtliche Vorwirkung*。法国称 *l'opération*（“travaux ou opérations”，L. 322-2, dernier alinéa）。³ 西班牙的法定术语是 *el*

¹ *Flurbereinigungsgesetz* (FlurbG), § 87(1) (“Nachteile ..., die durch das Unternehmen entstehen”; the procedure is known as *Unternehmensflurbereinigung*); verified at gesetze-im-internet.de, 6 October 2026. [P]

² *Baugesetzbuch* (BauGB), § 95(2) Nr. 2 (disregard keyed to the imminent expropriation); § 96(1) Nr. 2 (Wertminderung of the remainder); verified at dejure.org (consolidated) and re-read on the official gesetze-im-internet.de, 19 September 2026. [P]

³ Code de l'expropriation pour cause d'utilité publique, arts. L. 321-5 (set-off of plus-value on the remainder) and L. 322-2 (date of value; use one year before the public inquiry); consolidated text at codes.droit.org (re-read on legifrance.gouv.fr, 19 September 2026), read in machine translation (French). [P]

proyecto de obras (art. 36.1 LEF: “plano o proyecto de obras”); ⁴ 现代规划术语是 *la actuación* (art. 7 TRLSRU 2015)。⁵ 巴西使用 *a obra* 和 *o melhoramento* (DL 3.365/1941, arts. 4–5)。⁶ 土耳其的 *Kamulaştırma Kanunu*, m. 11, ⁷ 称其为 *imar ve hizmet teşebbüsü* ——而 *teşebbüs* 意为“项目”，而非“proje”；该借词并非法定术语。

在俄罗斯法规中，“工程”一词作为“对象”出现：объект(如 строительство объекта федерального / регионального / местного значения 所示——建设具有联邦、地区或地方重要性的工程)。“方案不予考虑”原则最接近的对应条款存在于两处：《土地法典》(ZK RF)、art. 56.8(5)、⁸，该法典以先前的使用状况为依据，并规定不应将规划中的征用纳入考量 (Планируемое изъятие ... не учитывается)，以及 art. 56.8(8) 连同《民法典》(GK RF)、art. 280，根据该规定，通知发出后的改良工程风险由所有权人自行承担。《民法典》art. 281(2) 中并未包含此类排除条款，而将其作为依据引用则属于该部门在报告中发现的错误。

阿拉伯语起草的法规存在差异。在埃及和海湾地区，“المشروع” (*al-mashrū‘*) 是一个真正的法定名词：埃及第 10/1990 号法律，art. 2；⁹ 卡塔尔 2022 年第 8 号法律，arts. 6–7；¹⁰ 科威特 1964 年第 33 号法令¹¹ 提及 العامة المنفعة مشروع (公益项目)。采用法国模式的马格里布法规则使用 العملية / الأشغال (工程 / 建设项目) 一词——阿尔及利亚第 91-11 号法律，arts. 6 and 9。¹² 此外，缺失的可能是名称而非规则本身：埃及存在一项真实但范围狭窄的例外规定——art. 18 根据第 10/1990 号法律，若征用发生在先前公益项目所产生的增值——若征用发生在五年内——而 art. 17 则考虑了部分征用后剩余土地价值的变化：增值——改良（工程导致的所有者保留土地价值上升；在美国实践中称为特殊利益）——将从补偿金中扣除，而价值减少——即“恶化”（英国用法；在美国实务中称为“剩余地块损害”或“分割损害”）——则计入其中 (إذًا ... ملكيته تنزع لم الذي الجزء قيمة نقصت أو زادت إذا)。但在所调查的阿拉伯语起草的法规中，并不存在普遍适用的“无方案规则”，而现有的狭义规则也没有被普遍接受的统称。报告应如实说明这一点，而非杜撰一个新名词。

东亚可分为三部分。日本的《土地征用法》(1951 年第 219 号法案)¹³ 包含一个真正的法定术语：事業 (*jigyō*)，arts. 2–3，其衍生出项目批准 (事業の認定，art. 16) 以及相关名词起業者 (实施主体) 和起業地 (项目用地)。토지보상법 (*xīngbàn shìyè* 공익사업사업인정，arts. 3, 3-2, 13)，¹⁴

⁴Ley de Expropiación Forzosa of 16 December 1954 (LEF), art. 36 (date; plusvalías excluded); consolidated text, BOE, read in machine translation (Spanish). [P]

⁵Real Decreto Legislativo 7/2015 (TRLSRU), arts. 7 and 36.2; source not recorded. †

⁶Decreto-Lei 3.365/1941, arts. 4–5; art. 27 (*valorização ou depreciação* of the remainder regarded); as originally published; consolidation not re-verified; planalto.gov.br, 1941 original. [P]

⁷Expropriation Law No. 2942 (*Kamulaştırma Kanunu*), m. 11 (disregard of the *imar ve hizmet teşebbüsü* increase); m. 12 (set-off capped at half the compensation for the part taken); source for m. 11–12: Wikisource transcription. [T]†

⁸Zemelný Kodeks (Land Code), art. 56.8(5) (valuation on the prior permitted use; the planned taking not taken into account); art. 56.8(8) with GK st. 280 (post-notice improvements at owner’s risk); consolidated mirror, statutory text only. [M]†

⁹Law 10/1990: art. 2 (*al-mashrū‘* as statutory noun); art. 17 (set-off of increase or decrease on the untaken part); art. 18 (disregard of increase from a prior public-benefit project within five years); source: corrected transcription. [T]†

¹⁰Law No. 8 of 2022 on the expropriation of real estate and its temporary seizure for public benefit, in force 1 December 2022, arts. 6–7 (*al-mashrū‘*); Al Meezan, Qatar Legal Portal, read in machine translation (Arabic). [P]

¹¹Decree-Law No. 33 of 1964 on expropriation and temporary seizure for public benefit, as amended (including by Law No. 2 of 2006); practitioner commentary; official portal inaccessible at press; citation to be confirmed. [C]†

¹²Law No. 91-11 of 27 April 1991, *Journal Officiel* No. 21 of 8 May 1991; joradp.dz and FAOLEX, read in French. [P]

¹³Land Expropriation Act (Act No. 219 of 1951), arts. 2–3 (*jigyō*); art. 16 (project approval); art. 71 (price fixed at project-approval publication, rolled forward by general price movement); art. 90 (*kigyō rieki*, set-off prohibited); verified at e-Gov (elaws.e-gov.go.jp). [P]

¹⁴Land Expropriation Act (Taiwan), arts. 3, 3-2, 13; art. 30(1) (market price at the time of expropriation); Enforcement Rules, art. 30 (announcement-price floor); verified at law.moj.gov.tw (D0060058 with enforcement and appraisal rules). [P]

与土地徵收條例 *gongik saeop*¹⁵基本 art. 2(2) 名词興辦事業 相对事業应。中华人民共和国 则属于反例：不存在作为估值参考的专业术语。（中华人民共和国本身也构成一个独特的语境，一般框架并不拟合：城市土地归国家所有，农村土地归集体所有，而土地使用权人持有固定期限的土地使用权；如同租赁，该权利的价值会随着剩余期限的缩短而贬值，其估值基于剩余年限——这并非永久产权（按美国术语，即“绝对所有权”。）法定集体名词是“建设活动”（建设活动，*jiànshè huódòng* — 建设活动：《土地管理法》（土地管理法）art. 45；国务院第 590 号令，art. 9）；“规划”¹⁶，建设项目）仅作为一个泛指规划的名词（arts. 52–53）存在，绝不能将其视为等同概念。

2. 方向性词组、中性名词或动词。 方向性词组针对变化的两个方向使用不同的表述——一个术语表示价值增加，另一个表示价值减少——而本期刊则统一使用中性表述“价值效应”（*value effect*）。在本期调研的法规材料中，没有任何一部法规将一般抽象名词用作该方案对价值本身所产生影响的术语。有些法规仅从方向上表述（增加、减少）；另一些则使用中性名词来指代价值变化（德语 *Wertänderungen*，法语 *changements de valeur*，韩语 가격의 변동），但并未将其作为专业术语。德国将 *Wertsteigerung* 与 *Wertminderung* (§§ 95–96 BauGB) 并列使用，而 *Wertänderung* 则作为中性形式存在。在方向性术语中，法国《民法典》仅使用 *plus-value* (L. 321-5，对剩余部分的抵销)，而西班牙则仅使用“增值”一词；*moins-value* 是法学学术界使用的术语，并未出现在《民法典》中。“不予考虑”这一概念 (L. 322-2) 使用中性词 *changements de valeur*，因此既涵盖增加也涵盖减少。西班牙有 *plusvalía* (art. 36.1 LEF) ——仅指增值方面——以及 *expectativas*，用于表示预期价值（基于未来收益或尚未实现的许可的预期价值；art. 36.2 TRLSRU）。巴西则将 *valorização* 与 *depreciação* (DL 3.365, art. 27) 配对使用；欧洲葡萄牙语专业术语为 *mais-valia* (CE art. 23.^o/2: “não pode tomar-se em consideração a mais-valia que resultar ... da própria declaração de utilidade pública da expropriação”), 本问题已对照 Lei n.^o 168/99 的合并文本 (Procuradoria-Geral Distrital de Lisboa) 及颁布时的公报文本 (Diário da República ——葡萄牙官方公报，用于颁布其法规——I Série-A, n.^o 219, 1999 年 9 月 18 日) 进行了核查。土耳其将 *değer artışı* 与 *değer düşüklüğü* (m. 11–12) 配对，且其 m. 12 规定，针对部分征用裁决的补偿金抵销设有上限：扣除额不得超过被征用部分补偿金的一半。采用阿拉伯模式的法规将 الزيادة / القيمة في النقصان（价值的增加 / 减少）并列；埃及关于“增值”的专业术语是 التحسين (*al-tahsīn*；即“增值稅”，对因公共工程而获益的土地所有者征收的税费：التحسين مقابل) ——这并非 المضافة القيمة，后者属于增值稅术语范畴。

俄语位于该轴线的动词一端：其规范用法是 动词化的，而非名词化的——效果“不予考虑”（не учитываются）——且不存在“艺术”这一名词。当俄语报告需要使用本期刊分析中所用的名词时，该部门建议的译法是 изменение стоимости，并配以短语 прирост / снижение стоимости。

东亚各国的法律完全摒弃了这一核心概念：它们没有使用名词或动词，而是采用了结构性手段（如固定估值日、禁止抵销规则）。在日本的法律中，并未针对该机制对价值的影响界定任何专业术语；其手段均属于结构性手段。Art. 71 将价值固定在项目批准公告发布之时（価格固定制），其价值仅随总体价格变动而调整（物価の変動）；art. 90 将该方案衍生的收益命名为——起業利益 (*kigyō rieki*)，一个法定名词——并禁止将其与分割损失（保留土地因被切断与被征用部分的联系而遭受的损失；在美国实践中称为分割损害赔偿）进行抵销。该被排除收益的法理名词是開発利益 (*kaihatsu rieki*)；価格の変動（价格变动）是一个普通的描述性短语，并非专业术语。本期未核实来源列表（Prolog 附录中的待处理账目）中仍有两项目日本条目：1962 年内阁决定的补偿标准纲要（公共用地の取得に伴う損失補償基準要綱），该文件可能包含明确的“无方案”表述，但尚未查阅到，以及最高法院 2002 年 6 月 11 日关于 art. 71 案的判决¹⁷，此处引自法理而非判决书正文。

¹⁵ Act on Acquisition of and Compensation for Land etc. for Public Works Projects (Toji Bosang Beop), arts. 2(2), 67(2) (no-scheme rule) and 70(1); verified at law.go.kr, current to 16 June 2026. [P]

¹⁶ Land Administration Law (2019), arts. 45, 52–53; State Council Decree No. 590, arts. 9 and 19 (market floor at announcement day); appraisal measures Jianfang [2011] No. 77, arts. 10–11 (valuation date at announcement; disregard of lease, mortgage and seizure factors only); a verified negative: no scheme-disregard device found; national instruments only — local rules and GB/T 50291 remain unchecked; verified at gov.cn (State Council). [P]

¹⁷ Supreme Court of Japan, 11 June 2002 (H14.6.11), on art. 71 of the Land Expropriation Act; cited from doctrine rather than from the judgment text. †

韩国《土地征用法》第 67 条第 2 款规定了一项一般性的“不计价”原则，其表述如下—— 해당 공익사업으로 인하여 토지등의 가격이 변동되었을 때에는 이를 고려하지 아니한다（即土地价格因相关公共工程项目而发生变动时，不予考虑）——该表述基于名词 가격의 변동；而第 70(1) 条的 지가의 영향，是所调查的各项法规中最为接近字面意义上“价值效应”的表述。该法理即为 개발이익 배제 원칙，宪法法院在 89heonma107 号判决（1990 年 6 月 25 日），¹⁸ 中认定，该原则将 개발이익 排除在全额补偿所涵盖的客观价值之外；《开发收益返还法》将 개발이익（第 2 条第 1 款）定义为 超出土地价格正常涨幅的部分。这一保留条款具有较大的权重：개발이익 仅指增值部分，且无法解决折旧这一问题。

在台湾的相关法规中，未发现等效的名词，也未发现完整的“不考虑市场情况”条款。《台湾证券交易法》（Art. 30）采用“市场价格”（徵收當期之市價，即征用时的当前市场价格），并每六个月审查一次市场价格变动范围（市價變動幅度）；《台湾证券交易法实施细则》（art. 30）则通过 单向棘轮机制确定日期——若当前市场价格低于公告价格，则以公告价格为准，从而抵消贬值影响，而增值则不会被系统性排除——此外，评估规则¹⁹ 的 art. 7 条款排除了受预期影响的交易（期待因素影響之交易）排除在可比实例之外。该方向性术语为增值 / 漲價 相对減損 / 貶值，依据宪法原则漲價歸公（art. 143）。

在针对中华人民共和国所审查的法律文件中，未发现任何“方案不予考虑”规则。第 590 号法令（art. 19）规定了补偿的下限：补偿金额不得低于征收决定公告之日可比房产的市场价格（征收决定公告之日）；2011 年《评估办法》（arts. 10–11）将评估基准日定为公告日，并规定仅需排除租赁、抵押及扣押等因素的影响。农村土地采用行政确定的区片综合地价（综合地价，由各省依据《土地管理法》art. 48 设定），在此制度下不存在市场反事实。实践中的方向性配对为增值 / 贬值。这一否定结论基于两项国家法规和 2011 年的措施；地方规则及国家评估标准尚未受到审查，而附录中待处理的账目记录了这一限制。

实用规则：在涉及方向性配对制度的条款中，应援引该配对，而非其中单方。若仅援引该规则的增值条款，可能会错误解释该条款中同时涉及贬值的部分——公共项目及其对价值的影响一案在采用对称规则的司法管辖区中记录了这一错误。

3. 词语相同但指称对象不同。价值基础与估价方法的核心在于区分“价值基础”（指评估必须得出的价值类型，如市场价值）与“估值方法”（指得出该数值所采用的程序，如成本法）。在波兰，《房地产管理法》（*ustawa o gospodarce nieruchomościami*, UGN）²⁰ 将这两个概念分别规定在两条条款中，并阐明了这一区分的重要性。*wartość odtworzeniowa*（重置价值）这一术语是价值的基础（第 150 条）。而得出该价值的成本法则是独立的，并有其独立的名称（第 152(3) 条）。若译者将二者均译为“成本法”，则无视了法律上的区分。若估价师将“重置价值”视为一种方法，则会混淆价值类型与评估程序。本文开头讨论的俄语词汇 проект 属于相反的情况：在那里，一个看似熟悉的词指代了错误的概念；而在这里，两个截然不同的法定概念却被合并为一个英语短语。

4. 翻译后无法保留的机构名称。法院机构的术语很快就会过时，这既是时间上的差异，也是语言上的差异：某个时间点上正确的名称，在另一个时间点上就不再是该机构的正确称谓。如果评估报告使用过时的名称来指代某法院，不仅会损害其公信力，更严重的是，可能会导致引文看似指向了错误的法院，或是指向在相关日期并不存在的法院。以下三个例子说明了这一点。在墨西哥，随着 2024 年司法改革，最高法院（*Salas*）已不复存在。²¹ 经选举产生的最高法院（*Suprema Corte*）自 2025 年 9 月开始履职，仅以全体法官会议（*Pleno*）形式开庭。改革后撰写的报告不应将当前的裁

¹⁸Constitutional Court of Korea, 89heonma107, 25 June 1990（将开发收益（*gaebal iik*）排除在目标价值之外，全额补偿涵盖）；provenance: Toji Bosang Beop materials at law.go.kr, current to 16 June 2026. [P]

¹⁹Regulations Governing the Assessment of Market Value for Land Expropriation Compensation, art. 7（anticipation-affected transactions excluded）；Laws & Regulations Database, Ministry of Justice (Taiwan), read in machine translation (Traditional Chinese). [P]

²⁰*Ustawa o gospodarce nieruchomościami* (UGN) of 21 August 1997, art. 150（*wartość odtworzeniowa* as a basis of value）；art. 152(3)（the cost approach as method）；verified at isap.sejm.gov.pl (ISAP consolidated text as at 3 August 2026). [P]

²¹Decree reforming the Constitution（*Constitución Política de los Estados Unidos Mexicanos*）on the judiciary, *Diario Oficial de la Federación*, 15 September 2024: art. 94（the Suprema Corte “se compondrá de nueve integrantes”）

决描述为来自某合议庭 (Sala); 2025 年 9 月之前的合议庭裁决仍应按其所属合议庭进行引用。在匈牙利, 地区法院——大型案件的一审法院, 也是地方法院的上诉法院——自 2012 年 1 月 1 日起更名为地区法院 (*törvényszék*); “县法院” (*megyei bíróság*) 是 2012 年之前的名称。²² 巴基斯坦设有联邦宪法法院, 该法院由 2025 年 11 月通过的第 27 号宪法修正案设立;²³ 因此, 最高法院不再是宪法问题的终审法院, 尽管 2025 年 11 月之前撰写的文本中仍有此说法。

5. 历法纪年。同样的对齐问题不仅影响日期, 也影响词语。台湾地区的法律文件使用“中华民国”年号: 民国 115 年对应 2026 年。日本使用的则是“令和”年号: 令和 8 年等于 2026 年。泰国的法律文件则采用佛历, 该历法比公历早 543 年。如果因纪年偏移导致估值日期被错误转换, 这并非排版错误。这会使估值日期及证据基础发生数十年甚至数世纪的偏移。当报告引用此类文件时, 应同时提供两种形式: “民国 115 年 (2026 年)”。

估价计算示例。伦敦一位代表贷款方的律师持有以德国土地作抵押的贷款, 而该土地预计将被某道路项目征用。该律师向一位估价师询问, 德国法律如何处理英国报告中所称的“该项目对价值的影响”这一问题。

这种天真的做法依赖于词汇匹配: 将“the scheme” (显然对应于“*das Projekt*”) 进行翻译, 在《建筑法》(BauGB) 中查找, 未找到相关条款, 进而得出结论认为德国法律中不存在“方案规则”。这一过程的每一步都因不符合第 1 条或第 3 条的规定而失效。

“对齐路径”首先询问“该方案”在原法中履行何种职能——即, 其效力将被忽略的法律行为被称为什么——然后询问德国法律中由何种法律行为履行该职能。在当前用法中, 该法律行为被称为 *das Vorhaben*, 而在学说传统中则称为 *das Unternehmen* (§ 87 FlurbG)。然而, 忽略规则并不与某项特定法律制度的名称挂钩: § 95(2) Nr. 2 BauGB 将因即将发生的征收而产生的任何价值变化——即“Wertänderungen ... infolge der bevorstehenden Enteignung”——排除在考量之外, 这正是该学说所指的 *enteignungsrechtliche Vorwirkung*, 即征收本身产生的预先效力。此外, “价值”一词的表述采用了对立概念, *Wertsteigerung / Wertminderung* (§§ 95–96 BauGB), 因此该报告同时涵盖了这两者。

该摘要并未将“该方案”进行翻译, 也未声称这两个制度是等同的。相反, 它解释说, 德国法律是通过基于征收预先效力的规则来处理该问题的, 而非通过某个特定方案, 并列出了相关的德国法律术语和条款。“对照”部分分别以各法律体系自身的表述呈现其内容, 将两者并列展示, 以便读者进行比较。

对结论可辩护性的意义。一份涉及多个司法管辖区的报告应:

(a) 在首次使用该术语时, 应注明源语言的术语名称、其工作译文以及该术语所引用的法律文书和条款, 以便读者能够核对对应关系, 而不是盲目相信该对应关系;

(b) 切勿断言两个体系中的术语是等价的, 而应解释每个术语在其所属体系中的作用, 并通过将它们并列比较来揭示其异同;

(c) 将方向性对作为一对进行引用, 因为如果仅引用增强项, 可能会错误地表述一条同时涵盖折旧的规则;

(d) 将所有尚未与原始文本核对的表单标记为“待处理”, 就像该条目的第一个版本对 *mais-valia* 所做的那样, 直到葡萄牙语文本经过核对为止;

(e) 应使用当前机构名称和双格式日期, 因为过时的法院名称或转换错误的纪年年份属于错误, 而非风格问题。

跨境报告之所以常常失败, 是因为将术语翻译成本国系统的术语会给人一种虚假的流畅感, 从而可能导致误导。那些明确承认差异的报告虽然可能更难读懂, 但准确性更高, 也更不容易受到

... y funcionará en Pleno”); transitory provisions (the elected members take office on 1 September 2025); verified at dof.gob.mx, 6 October 2026. [P]

²²2011. évi CLXI. törvény a bíróságok szervezetéről és igazgatásáról (Bsz.), § 16(c) (*a törvényszék*), in force 1 January 2012; verified at njt.jog.gov.hu, 6 October 2026. [P]

²³Twenty-seventh Constitutional Amendment, November 2025 (creating the Federal Constitutional Court); press-sourced; citation pending. †

质疑。

Cross-references: 011 公共项目及其对价值的影响 — 该概念本条目追踪该概念在各系统中的词汇。

012 估价的目的 — 该分类所属的规则 (e), 本条目所述规范即以此规则为准。

词典: 术语差异; 方向对; 价值基础。

本期“近期法院判决”: 欧盟; 英国; 中东和北非; 东亚; 南亚; 北美; 南美。

Addendum: Prolog Formalization

The following machine-readable companion (013-terminology-divergence.pl) formalizes this entry in the journal's Prolog knowledge base. It is also published as a browsable galley alongside this article.

```
% SPDX-License-Identifier: AGPL-3.0-or-later
% Copyright (C) 2026 William Bert Craytor. Published by The Valuation Engineer
% Journal (Pacific Vista Net). This program is free software: you can
% redistribute it and/or modify it under the terms of the GNU Affero General
% Public License as published by the Free Software Foundation, either version 3
% of the License, or (at your option) any later version. It is distributed
% WITHOUT ANY WARRANTY, without even the implied warranty of MERCHANTABILITY or
% FITNESS FOR A PARTICULAR PURPOSE; see the COPYING file beside it or
% <https://www.gnu.org/licenses/agpl-3.0.html>.

%% 013-terminology-divergence.pl
%%
%% v1.1.0: forms 1-3 are divergences of vocabulary, 4-5 of reference; a
%% missing equivalent is not a missing concept; the alignment rule stated.
%%
%% Prolog companion to Foundations entry 013, "Terminology Across
%% Jurisdictions" (concept id: terminology_divergence).
%%
%% Records, for the terms the entry tracks, what each surveyed legal
%% system uses in its own statutory language, classified by the type
%% of divergence. Every fact carries a verification status; forms
%% reported but not yet checked against the primary text are recorded
%% as pending, never as verified. The CJK verification has landed:
%% Japanese, Korean, Taiwanese, and PRC facts below are verified
%% against the primary statute texts; the residual gaps are recorded
%% in the pending ledger, never filled.
%%
%% Non-Latin scripts and diacritics are transliterated to ASCII in
%% atoms and strings for galley portability; the entry text carries
%% the original forms. (tesebbusu = tesebbüsü; Wertaenderung =
%% Wertänderung; wartosc = wartość; etc.)

:- module(terminology_divergence,
  [ divergence_family/2, missing_equivalent_implies_missing_concept/1, alignment_rule/1,
    ↪ nuance_type/1, equivalent/5, false_friend/4, value_language/5,
      referent_split/5, institution_trap/3, calendar_era/3,
      no_term_of_art/3, pending_verification/4, do_not_cite/3,
      check/0 ]).

% Portability: Scryer Prolog loads the list predicates on request and has
% no built-in forall/2 inside a module; for_all/2 below is the ISO
% definition, so the module runs unchanged in Trealla, SWI and Scryer.
:- use_module(library(lists)).

for_all(Cond, Action) :- \+ ( call(Cond), \+ call(Action) ).
```

```

% THE FIVE TYPES OF NUANCE

nuance_type(missing_equivalent).
nuance_type(directional_pair_vs_neutral_noun).
nuance_type(same_word_different_referent).
nuance_type(institution_name).
nuance_type(calendar_era).

% Verification vocabulary.
valid_status(verified).    % checked this issue against the source the entry's footnote names (
    ↳ primary text unless daggered there)
valid_status(pending).    % reported to the department; not yet checked

% equivalent(Concept, Language, Form, Register, Status)
% What does the work of the English term in each system. Register
% distinguishes the statutory form from modern usage and doctrine.

% --- the scheme (Commonwealth term; no single equivalent anywhere) ---

equivalent(scheme, german, 'das Vorhaben',      modern_usage, verified).
equivalent(scheme, german, 'das Unternehmen',   doctrine,      verified).
    % preserved in sec. 87 FlurbG, Unternehmensflurbereinigung

equivalent(scheme, french, 'l\'operation',      statutory,    verified).
    % "travaux ou operations", L. 322-2 dernier alinea

equivalent(scheme, spanish, 'el proyecto de obras', statutory, verified).
    % art. 36.1 LEF: "plano o proyecto de obras"
equivalent(scheme, spanish, 'la actuacion',     modern_usage, verified).
    % art. 7 TRLSRU 2015

equivalent(scheme, portuguese_br, 'a obra / o melhoramento', statutory, verified).
    % DL 3.365/1941 arts. 4-5

equivalent(scheme, turkish, 'imar ve hizmet tesebbusu', statutory, verified).
    % Kamulastirma Kanunu m. 11; tesebbus = undertaking, NOT "proje"

equivalent(scheme, russian, 'obyekt',          statutory,    verified).
    % the undertaking appears as the object: "stroitel'stvo obyektu
    % federal'nogo / regional'nogo / mestnogo znacheniya"; no
    % single-word equivalent exists

equivalent(scheme, arabic_egypt_gulf, 'al-mashru`', statutory, verified).
    % Egypt Law 10/1990 art. 2; Qatar Law 8/2022 arts. 6-7; Kuwait
    % Decree-Law 33/1964 "mashru` al-manfa`a al-`amma"
equivalent(scheme, arabic_maghreb, 'al-`amaliyya / al-ashghal', statutory, verified).
    % French-model statutes; Algeria Law 91-11 arts. 6, 9

% --- East Asia (verified against primary statute texts) -----

equivalent(scheme, japanese, jigyo, statutory, verified).
    % Land Expropriation Act (Act No. 219 of 1951), arts. 2-3; the
    % project approval is jigyo no nintei (art. 16); satellite nouns
    % kigyosha (undertaker), kigyochi (project land)

equivalent(scheme, korean, 'gongik saeop', statutory, verified).
    % Toji Bosang Beop, art. 2(2)/(7); saeop injeong parallels
    % Japan's project approval

equivalent(scheme, taiwanese, 'xingban shiye', statutory, verified).
    % Land Expropriation Act (TW), arts. 3, 3-2, 13; bare head noun

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% shiye

% The PRC has NO term of art as a valuation reference; the statutory
% collective noun is recorded below via no_term_of_art/3 rather than
% as an equivalent, and jianshe xiangmu is a false friend.
% no_term_of_art(Jurisdiction, Concept, WhatExistsInstead)

no_term_of_art(chinese_prc, scheme,
    'collective noun jianshe huodong (construction activities), Land Administration Law art. 45;
    ↪ Decree No. 590 art. 9').

% --- false friends: the word exists, the referent is wrong -----
% false_friend(Language, Form, LooksLike, ActualReferent)

false_friend(russian, proekt, scheme,
    'design documentation (drawings and papers), not the undertaking').

false_friend(arabic_egypt, 'al-qima al-mudafa', betterment,
    'value-added-tax vocabulary; the betterment term of art is al-tahsin (levy: muqabil al-tahsin)
    ↪ ').

false_friend(chinese_prc, 'jianshe xiangmu', scheme,
    'generic planning noun only (Land Administration Law arts. 52-53), not a valuation reference').

% value_language(Language, IncreaseTerm, DecreaseTerm, NeutralForm, Source)
% No statute surveyed uses a general abstract noun as a term of art for the scheme's
% effect on value as such: some speak only directionally, some use a
% neutral noun for a change in value, Russian speaks verbally. NeutralForm is none/1-wrapped
    ↪ commentary where absent.

value_language(german, 'Wertsteigerung', 'Wertminderung',
    neutral('Wertaenderung'), 'secs. 95-96 BauGB').

% Of the directional pair the Code uses only 'plus-value' (L. 321-5);
% 'moins-value' is scholarly usage, not in the Code. The disregard
% (L. 322-2) uses the neutral 'changements de valeur': both directions.
value_language(french, 'plus-value', none,
    neutral('changements de valeur'), 'L. 321-5; neutral form L. 322-2, final paragraph').

value_language(spanish, 'plusvalia', none,
    none, 'art. 36.1 LEF; hope value: expectativas, art. 36.2 TRLSRU').

value_language(portuguese_br, 'valorizacao', 'depreciacao',
    none, 'DL 3.365 art. 27').

value_language(portuguese_pt, 'mais-valia', none,
    none, 'CE art. 23/2, Lei 168/99 (DR I-A n. 219, 18-9-1999; consolidated text, PGD Lisboa) --
    ↪ verified 2026-09-02').

value_language(turkish, 'deger artisti', 'deger dusuklugu',
    none, 'Kamulastirma Kanunu m. 11-12').

value_language(arabic_model, 'al-ziyada fi al-qima', 'al-nuqsan fi al-qima',
    none, 'Egypt Law 10/1990 arts. 17-18').

value_language(russian, 'prirost stoimosti', 'snizhenie stoimosti',
    neutral('izmenenie stoimosti'),
    'recommended renderings; the statutory technique is verbal ("ne uchityvayutsya"), ZK RF st.
    ↪ 56.8 p. 5').

% Japan: NO abstract noun; devices are structural (art. 71 price

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% fixed at project-approval publication, rolled forward only by
% general price movement, bukka no hendo; art. 90 kigyo rieki,
% set-off against severance losses PROHIBITED). Doctrine noun for the
% excluded gain: kaihatsu rieki. Neutral movement noun: kakaku no
% hendo.
value_language(japanese, 'kigyo rieki (scheme-derived benefit, art. 90)', none,
    neutral('kakaku no hendo'),
    'Act No. 219 of 1951, arts. 71, 90; doctrine: kaihatsu rieki').

% Korea: art. 67(2) states the general no-scheme rule verbatim on the
% noun gagyeok ui byeondong; art. 70(1) jiga ui yeonghyang is the
% closest any surveyed statute comes to a literal "value effect".
value_language(korean, 'gaebal iik (development gain; enhancement only)', none,
    neutral('gagyeok ui byeondong'),
    'art. 67(2) Toji Bosang Beop; art. 70(1); CC 89heonma107 (25 June 1990); Restitution of
    ↳ Development Gains Act art. 2(1)').

value_language(taiwanese, 'zengzhi / zhangjia', 'jiansun / bianzhi',
    none,
    'Land Expropriation Act (TW) art. 30; enforcement rules art. 30; appraisal rules art. 7; Const.
    ↳ art. 143 zhangjia guigong').

value_language(chinese_prc, zengzhi, bianzhi,
    none,
    'pair in practice, not a statutory scheme with a disregard: Decree No. 590 art. 19; 2011
    ↳ appraisal measures arts. 10-11').

% Korea's doctrine noun answers the enhancement limb only.
enhancement_only(korean, 'gaebal iik',
    'does not answer the depreciation limb').

% Taiwan: enforcement rules art. 30 runs a ONE-WAY RATCHET.
one_way_ratchet(taiwanese, 'enforcement rules, art. 30',
    'announcement price governs where the current market price is lower: depreciation neutralised,
    ↳ enhancement not systematically excluded').

% PRC: no scheme-disregard rule at all in the instruments checked.
no_disregard_rule(chinese_prc,
    'Decree No. 590 art. 19 is a floor (not below market price of comparable property at the
    ↳ expropriation-decision announcement date); 2011 measures arts. 10-11 disregard only lease,
    ↳ mortgage, and seizure factors; rural land takes an administratively set composite zone price (
    ↳ qupian zonghe diji), no market counterfactual').

% Turkiye m. 12: the deduction for enhancement on a partial taking may
% not exceed 50% of the compensation for the part taken.
setoff_cap(turkish, 'm. 12, Kamulastirma Kanunu', 50).

% Egypt art. 17: betterment/worsenment set-off on the remainder of a
% partial taking (no percentage cap recorded as verified).
remainder_setoff(arabic_egypt, 'art. 17, Law 10/1990').

% Germany keys its disregard to the expropriation's advance effect,
% not to a named scheme: sec. 95 II Nr. 2 BauGB, "Wertaenderungen ...
% infolge der bevorstehenden Enteignung" (doctrine:
% enteignungsrechtliche Vorwirkung).
disregard_keyed_to(german, 'the impending expropriation itself',
    'sec. 95 II Nr. 2 BauGB').

% Portugal keys one limb of its disregard to the declaration of
% public utility itself: art. 23/2 a) CE, "a mais-valia que resultar
% ... da propria declaracao de utilidade publica da expropriacao"

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% (verified against Lei 168/99, DR I-A n. 219, 18-9-1999, and the
% consolidated text).
disregard_keyed_to(portuguese_pt, 'the declaracao de utilidade publica itself',
    'art. 23/2 a),Codigo das Expropriacoes (Lei 168/99)').

% Russia's nearest analogues: prior-use valuation with the planned
% taking left out of account, and post-notice improvements at the
% owner's risk.
disregard_keyed_to(russian, 'the planned taking; post-notice improvements at owner\'s risk',
    'ZK RF st. 56.8 pp. 5, 8; GK st. 280').

% No general no-scheme rule exists across the Arabic-drafted statutes
% surveyed, and the narrow rules that exist (Egypt arts. 17-18) have
% no received collective name.
disregard_keyed_to(japanese,
    'price fixed at project-approval publication; scheme benefit not set off against severance
    ↪ losses',
    'arts. 71, 90, Act No. 219 of 1951').

disregard_keyed_to(korean, 'the public-works project concerned (general no-scheme rule)',
    'art. 67(2), Toji Bosang Beop').

no_received_name(arabic_drafted_statutes, scheme_disregard).

% referent_split(Jurisdiction, Term, ReferentA, ReferentB, Sources)
% Same word (or nearby words) naming different things: the basis of
% value vs the approach that produces it.

referent_split(poland, 'wartosc odtworzeniowa',
    basis_of_value, cost_approach_that_produces_it,
    'basis: art. 150 UGN; approach: art. 152(3) UGN').

% institution_trap(Jurisdiction, ObsoleteOrWrongForm, CurrentFact)

institution_trap(mexico, 'Salas of the Suprema Corte',
    'post-2024 reform: no Salas; the elected court, seated September 2025, sits en banc (Pleno)
    ↪ only').

institution_trap(hungary, 'county court',
    'the regional court is the torvenyszek (since 1 Jan 2012); county court is the pre-2012 name').

institution_trap(pakistan, 'Supreme Court as final constitutional forum',
    'a Federal Constitutional Court exists under the 27th Amendment (November 2025)').

% calendar_era(Era, YearIn2026, OffsetToCE)
% Era year + OffsetToCE = common-era year.

calendar_era(minguo,      115, 1911).
calendar_era(reiwa,       8, 2018).
calendar_era(buddhist_era, 2569, -543).

% VERIFICATION LEDGER

% pending_verification(Kind, Item, Language, Note)
% Kind: term_form | instrument | judgment.

pending_verification(instrument,
    'Compensation Standards Outline for Acquisition of Land for Public Use (1962 Cabinet decision)
    ↪ ',
    japanese,
    'may contain an explicit no-scheme phrase; unreached').

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pending_verification(judgment,
    'Supreme Court, 11 June 2002 (H14.6.11), on art. 71',
    japanese,
    'cited from doctrine, not from the judgment text').

pending_verification(instrument,
    'local rules and GB/T 50291',
    chinese_prc,
    'the PRC negative finding rests on the two national instruments and the 2011 appraisal measures
    ↪ only').

% Provisions the department has verified do NOT say what they are
% sometimes cited for.
do_not_cite(russian, 'GK st. 281(2)',
    'contains no scheme-effect exclusion').

% CHECKS
% 1. Every equivalent carries a status from the closed vocabulary, and
%    the pending ledger is consistent: every value_language row whose
%    source is marked PENDING has a matching term_form ledger entry,
%    and vice versa; every ledger entry's kind is from the closed
%    vocabulary.
% 2. No equivalent row claims a recorded false friend: the false
%    friend ledger and the equivalent ledger are disjoint per language.
% 3. The CJK record is populated AND sourced (this check replaced
%    no_cjk_yet when the verification landed): verified scheme
%    equivalents exist for Japanese, Korean, and Taiwanese; the PRC
%    negative finding is recorded as no_term_of_art, never as an
%    equivalent; every CJK language has a value_language row and a
%    provenance fact; and the residual gaps (1962 Outline, H14.6.11,
%    PRC local rules) sit in the pending ledger.
% 4. Calendar arithmetic is exact: era year + offset = 2026 for every
%    recorded era.
% 5. The Turkish set-off cap is a percentage.
% 6. "Value effect" is nowhere recorded as a statutory noun: no
%    value_language row carries 'value effect' as a form.

statuses_closed :-
    for_all(equivalent(_, _, _, S), valid_status(S)).

valid_pending_kind(term_form).
valid_pending_kind(instrument).
valid_pending_kind(judgment).

pending_ledger_consistent :-
    for_all(( value_language(L, F, _, _, Src),
        sub_atom(Src, _, _, _, 'PENDING') ),
        pending_verification(term_form, F, L, _)),
    for_all(pending_verification(term_form, F, L, _),
        ( value_language(L, F, _, _, Src),
            sub_atom(Src, _, _, _, 'PENDING') )),
    for_all(pending_verification(K, _, _, _), valid_pending_kind(K)).

false_friends_disjoint :-
    \+ ( false_friend(Lang, Form, Concept, _),
        equivalent(Concept, Lang, Form, _, _) ).

% Provenance for the East Asian record.
cjk_source(japanese,
    'Land Expropriation Act (Act No. 219 of 1951), e-Gov text').

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cjk_source(korean,
  'Toji Bosang Beop, law.go.kr, current to 2026-06-16').
cjk_source(taiwanese,
  'Land Expropriation Act, law.moj.gov.tw D0060058, with enforcement rules and appraisal rules').
cjk_source(chinese_prc,
  'Land Administration Law (2019); State Council Decree No. 590; appraisal measures Jianfang
  ↪ [2011] No. 77').

cjk_populated_and_sourced :-
  for_all(member(L, [japanese, korean, taiwanese]),
    ( equivalent(scheme, L, _, statutory, verified),
      cjk_source(L, _) )),
  no_term_of_art(chinese_prc, scheme, _),
  \+ equivalent(scheme, chinese_prc, _, _, _),
  cjk_source(chinese_prc, _),
  for_all(member(L, [japanese, korean, taiwanese, chinese_prc]),
    value_language(L, _, _, _, _)),
  pending_verification(instrument, _, japanese, _),
  pending_verification(judgment, _, japanese, _),
  pending_verification(instrument, _, chinese_prc, _).

calendar_exact :-
  for_all(calendar_era(_, Y, Off), 2026 == Y + Off).

caps_are_percentages :-
  for_all(setoff_cap(_, _, C), ( integer(C), C >= 0, C <= 100 )).

no_statutory_noun_for_value_effect :-
  \+ value_language(_, 'value effect', _, _, _),
  \+ equivalent(value_effect, _, _, statutory, _).

check :-
  statuses_closed,
  pending_ledger_consistent,
  false_friends_disjoint,
  cjk_populated_and_sourced,
  calendar_exact,
  caps_are_percentages,
  no_statutory_noun_for_value_effect,
  format("013-terminology-divergence: all checks passed~n", []).

% v1.1.0 additions.
divergence_family(vocabulary, [1,2,3]).
divergence_family(reference, [4,5]).
missing_equivalent_implies_missing_concept(false).
alignment_rule("The correct translation is the term, expression or legal mechanism that performs
  ↪ the same function in the other system, not the closest word; a plausible translation is not
  ↪ proof of legal equivalence.").

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