COMPUTER-ASSISTED TRANSLATION RISKS AND THREATS IN LEGAL TEXTS

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Abstract:

In a world in which IT is developing faster than ever, providing reliable solutions to all problems, regardless the field of interest, the issue of computer-assisted translation systems is more and more complex, offering both advantages and disadvantages. The field of translating legal texts from Romanian into English is deprived of a large number of specialists and this is one of the main reasons why more and more people resort to computer-assisted translations, especially Google translations when dealing with translating various texts (from Romanian into English or vice-versa), in this particular case legal texts.

Yet, although this field has immensely thrived recently, and is quite reliable for simple and very easy translations, the average English speaker runs huge risks of falling into traps that can lead to errors and misinterpretations. Thus, this article aims to identify the main theoretical approaches to computer-assisted theories and the major risks and threats that occur in this type of translation, focusing particularly on legal texts. There are important differences, not only of words, but also differences in the legal systems themselves, both theoretical and practical ones, which must be correctly dealt with –something which computer-assisted translation cannot do (yet).

Keywords: computer-assisted translation, legal texts, translation errors, threats and risks, misinterpretation.

JEL Classification: K0

Introduction

The field of Translation Studies, as we know it today, is a rather new discipline, developed hugely in the 20th century, especially due to the technological advances, to globalisation, to internationalisation, to the economic growth, in a word thanks to the entire system that makes up the world we are living in today. This field of study is no longer a single one, it is a multidisciplinary one, and thanks to this we can enjoy the results of this "boom" in the development of everything related to translation, whether technical, specialised, literary, scientific, economic, and so forth.

Whether we like it or not, we have to accept that the information technology progress has greatly influenced and changed the way translators do their job. This process is twofold, namely it has both advantages and disadvantages. In "the century of speed" everybody has to adapt to the new methods available and in the case of translation it is well known that it is a very lengthy process, depending on the type, level of difficulty, length of the Source Language (SL) text and also on the translator's experience. For this reason the multitude of devices available nowadays—electronic dictionaries, glossaries, terminology databases, concordances, on-line bilingual texts and translation memories—ease the translator's job by saving a lot of time which would have otherwise been spent on looking up words, phrases and expressions or explanations of different concepts in traditional dictionaries or books. Of course, this is not the only advantage, but the other ones will be later on discussed in this article.

At the opposite pole there is one of the greatest disadvantage, namely the unreliability of the "end-product" resulted from the computer-assisted translation (CAT) and hence the risks, the threats and the clumsiness of this type of translation vs. human translation. This is just one of the many disadvantages CAT has, but I believe it is just the foundation of what one day will turn into another advantage of this new type of translation since there is no way of turning back and since this is the only method of making progress: by analysing the mistakes and disadvantages and trying to improve them.

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Methods

The main methods I have used in this article are the content analysis method of the reference sources and of the texts chosen to exemplify the case studies and examples in point, the comparative approach through qualitative research, and the observation method starting from empirical research in the field.

The main aim was to emphasise the need and the usefulness of analysing the translation of legal texts as done by computer softwares, especially by Google Translate, without the assistance of specialists, in order to underline the main threats and risks generated by this type of translation. This translation analysis can be thus seen as a way of allowing the researcher/translator to identify problems which would have otherwise gone unnoticed and to repair the mistakes.

The main strategy I have used was the practical act of comparing the Source Language (SL) text with its translation into the Target Language (TL) and discussing mainly the cases of misunderstandings and mistranslations, of problems of equivalence, of losses and gains, of linguistic untranslatability, of the translators' visibility or invisibility in the TT, on accuracy in translation, adaptability, fidelity and faithfulness or infidelity.

Background

The task of finding a comprehensive definition for translation is not an effortless one, but this does not necessarily mean that there are no complete definitions of translation. From one point of view, the difficulty in defining translation can actually improve the quality of the yet unformulated theories about what should be understood by translation. How can such a thing be possible? In my opinion this would be possible by joining together all the essential elements from as many pertinent definitions as possible and then reunite them in the effort of creating a clear and comprehensive definition. Nevertheless, defining a concept—in our case that of translation—also refers, in my opinion, to the tasks a translation should perform. And this is when the difficulty of this process intensifies. Translation and the discipline of translation studies were rather newly formed disciplines as such (as we know them nowadays) and this indicates that there has not been much attention in this direction until the 20th century.

I feel it would be fair to say that starting with the second half of the last century there was a period of "boom" in the field of translation. All the new studies, theories, developments, new approaches and perspectives led to the creation of a new field of research and study, even to a revolution in how contemporary scientists approach and deal with translations nowadays. This so-called "boom" in translation theory can also be viewed as the result of the interdisciplinary character of the 20th century: all the new breakthroughs, the discovery and use of new tools in translation (new dictionaries, machine translations, Internet, memory databases, specialised and computerised programmes for translation, etc.), the new findings from inter-related disciplines: linguistics, psychology, literary studies, cultural studies, social studies, anthropology, philosophy, and so forth, all these new developments together with an increased interest in translation manifested by more and more scientists, researchers, translators, teachers and students finally led to an explosion of new ideas and theories in the field of translation. All these new findings affect both the way the process of translation is performed and the role and the tasks of translators nowadays. This newly rising discipline is developing faster than ever before and that is why more and more attention is being paid to this fascinating field of study and human interaction.

Lawrence Venuti believes that the last three decades of the 20th century represented the peak of translation studies as a new academic field of study at international level, a fact which was also due to the "proliferation of translator training programs worldwide" (1). The late 19th century and early 20th century brought on a change and a shift in the place and

status of translation and translators. The fact that translation was, for such a long time, confined to language teaching and learning can partly explain why academic circles considered it to be of secondary status (Munday 8).

In the process of translation (or as other critics divide it into translation-oriented analysis and translation-oriented interpretation) there are six major areas which are to be followed and respected by a translator in order to be able to render the adequacy of a text from the source language (SL) into the target language (TL): denotation, accentuation, modality, connotation, coherence and style. Professor L. Leviţchi, in the *Foreword* to "Limba Engleză-Manualul Traducătorului" (English Language-The Translator's Handbook) (2000), says that to translate means to paraphrase, to reproduce something using other words, to convey an idea from the SL into the TL. To translate well means to paraphrase well, to reproduce in the TL with the highest degree of accuracy the content of ideas, the logical and emotional structure of the original text so that the transposition can produce the same effect on the receiver as the original text; and the translation should not seem a translation (7). So the translator has to perfectly observe and render as such the original atmosphere of the text, by using the most appropriate associations of words and ideas in order to recreate the novel, but using his mother tongue. Professor L. Leviţchi also said that everything can be translated, but only with extreme efforts, and thus the work of a translator is much harder than that of the writer's. "A good translation must neither increase the difficulty of its comprehension (through an exaggerate encoding) nor 'lighten' it through an exaggerate decoding of some meanings and connections which the writer himself wished to maintain ambiguous" [my translation] (Bantaş and Croitoru 128).

Translation can also be defined from the point of view of linguistics. Thus, translation is a branch of applied linguistics, because in the process of translation the translator consistently makes any attempt to compare and contrast different aspects of two languages to find the equivalents (Karimi). A complete translation is the translation that reproduces as many meanings and values as possible from the foreign language into the mother tongue. The fruit of a translator's work has to be a paper work of the same value as the original one—no more, no less—having the same power of conviction.

Literary translation has as aim or task to reproduce the original artistic images from the SL into another language, the TL, so that the reader of the translation can become aesthetically entertained by the text, just as the native reader is moved or touched by the original. Clifford E. Landers argues that, as most critics do, "a translation should affect its readers in the same way that the original affected its first readers" (27), in other words to have the same effect on the TL readers as the original text had on the SL readers. A SL text should be translated using the same type of language as the original, the same style; it does not matter if the text is 300 years old, at that time the language of the original was modern to the readers, to its contemporaries, and it should be rendered the same ways, "not using slangy or faddish English" (Landers 27). He also considers that "if the speech patterns in the SL text struck the reader as deliberately old-fashioned, stilted, facetious, jargon-ridden, sub-standard, or in any other way a departure from expected modes of expression, that too should be reflected in the translation" (27).

Antar S. Abdellah considers that translation is a science, an art, and a skill. The main reason why translation is considered to be a science is that, to a certain extent, it requires "complete knowledge of the structure and make-up of the two languages concerned." The main reason for being considered an art is that it needs "artistic talent to reconstruct the original text in the form of a product that is presentable to the reader who is not supposed to be familiar with the original." And, finally, it is considered to be a skill because it necessitates "the ability to smooth over any difficulty in the translation, and the ability to provide the translation of something that has no equal in the TL." Antar S. Abdellah gave a definition of translation which focuses on the qualities of a good translation: a good translation has to carry all the ideas

of the original as well as its structural and cultural features; it has to be easily understood; to be fluent and smooth; to be idiomatic; to convey, to some extent, the literary subtleties of the original; to distinguish between the metaphorical and the literal; to reconstruct the cultural / historical context of the original; to make explicit what is implicit in abbreviations, and in allusions to sayings, songs, and nursery rhymes; and to convey, as much as possible, the meaning of the original text.

In general terms, numerous critics agree that not many things have drastically changed concerning translation. Translation cannot happen if there is not sound knowledge of both the source and the target languages, but there also has to be a thorough understanding of the topics dealt with in the text. Vicky Hartnack states that "one's cultural baggage and open-mindedness about the other's culture have always been decisive factors and the painstaking job of checking and rechecking one's work has always made part of the conscientious translator's routine" (59).

Thus, an important aspect of a complete translation must necessarily take into account a series of contexts, such as the linguistic, the social, the political and the cultural contexts in which the ST was produced and those in which the TT has to be reproduced, and even adapting the TT to such contexts if necessary.

Nowadays, thanks to the fast and huge development of IT we can talk about a new way of making translations and hence about two very different concepts: Computer-Assisted Translation (CAT) vs. human translation. But it is also necessary to have an idea about the very beginning of CAT:

> It was not until the twentieth century that the idea of creating automatic dictionaries appeared as a solution to the problem of linguistic barriers. In the 1930s two researchers worked independently towards the same goal: the Franco-Armenian George Artsrouni and the Russian Petr Smirnov-Troyanskii. The latter was the more important of the two because he developed the idea that three stages are necessary for a system of automatic translation: first an editor who knows the source language analyzes the words and converts them into base forms according to their syntactic functions; then a machine organizes the base forms into equivalent sequences in the target language; finally, this rough version is corrected by a second editor, familiar with the target language. Despite the significance of Troyanskii's work, it remained generally unknown until the late 1950s. (Craciunescu, O., C. Gerding-Salas and S. Stringer-O'Keeffe)

Computer-assisted or computer-aided translation (CAT) mainly refers to computer softwares that transfer strips of language or texts, but not without the help of specialists. Without their help such translations are not reliable, being also very poor in quality and generating huge mistakes, misunderstandings and mismatches which can go unnoticed if not revised by experts.

It is mandatory to correct the mistakes and improve the quality of the translation after using such translation tools and devices since they are only meant to help and ease the translator's work, not to replace it altogether. Nevertheless, there are people (such as average users of English, beginner translators, specialists in a certain field of study but with poor knowledge of the English language, etc.) who use these translation tools and then see the result as the "end-product". This is a big mistake since the text, regardless the field it belongs to, needs proofreading and post-editing done by expert and experienced translators.

The advantages of such systems are numerous for professional translators (and teachers) and the review of the literature in this field lists among the most important ones the following:
- Modules that provide complex sets of tools for CAT, but they might be expensive for the average users;
- Specialised terminology dictionaries creating thus customised dictionaries;
- Spell-checking (including word-processing softwares, add-on programmes, etc.);

- Grammar-checkers;
- Terminology managers, which allow the translator to manage his/her own terminology back in an electronic form, and there is a multitude of programmes and software packages;
- Electronic dictionaries, either unilingual or bilingual;
- Full-text search tools;
- Concordancers;
- Translation-memory tools or programmes – the basic principle for their functioning refers to storing previously translated source texts and their equivalent target texts in a database and retrieve related segments during the translation of new texts.

O. Craciunescu, C. Gerding-Salas and S. Stringer-O'Keeffe make a distinction between the two closely related and easily confusable terms: machine translation (MT) and computer-assisted translation (CAT). The distinction is important because the two technologies are the consequence of different approaches since they do not produce the same results and are used in distinct contexts.

MT aims at assembling all the information necessary for translation in one program so that a text can be translated without human intervention. It exploits the computer's capacity to calculate in order to analyze the structure of a statement or sentence in the source language, break it down into easily translatable elements and then create a statement with the same structure in the target language. It uses huge plurilingual dictionaries, as well as corpora of texts that have already been translated. As mentioned, in the 1980s MT held great promises, but it has been steadily losing ground to computer-assisted translation because the latter responds more realistically to actual needs.

CAT uses a number of tools to help the translator work accurately and quickly, the most important of which are terminology databases and translation memories. In effect, the computer offers a new way of approaching text processing of both the source and target text. Working with a digital document gives us non-sequential access to information so that we can use it according to our needs. It becomes easy to analyze the sentences of the source text, to verify the context in which a word or a text is used, or to create an inventory of terms, for example. Likewise, any part of the target text can be modified at any moment and parallel versions can be produced for comparison and evaluation. All these aspects have profound implications for translation, especially in terms of assessing the results, since the translator can work in a more relaxed way because of the greater freedom to make changes at any time while the work is in progress.

Even though CAT has greatly developed and improved since the beginning of the 20th century and it can now save much time, be very useful for non-specialist English speakers, prove even profitable for companies that either produce and sell the software or for those that buy the programmes and thus save money which would have otherwise been paid to human translators, "automatic translation systems are not yet capable of producing an immediately useable text, as languages are highly dependant on context and on the different denotations and connotations of words and word combinations" (Craciunescu, O., C. Gerding-Salas and S. Stringer-O'Keeffe). CAT is definitely not "a replacement for human activity" (Craciunescu, O., C. Gerding-Salas and S. Stringer-O'Keeffe) and it requires post-editing done by a reliable and experienced translator or specialist if we want a highly qualified and reliable translation, otherwise the users of such "unfinished products" run huge risks of falling into traps and of presenting a bad translation which can have negative effects, as we shall see further.

Case study
"The ongoing influx of new words in a language helps make it a rich field for investigation, despite the difficulty of defining precisely and accurately the vocabulary available to its speakers" (Chirilă C., Mîndreci G., 187). Thus the translation process is all

the more difficult and begins by determining the type and register of the work, as the choice of the vocabulary greatly depends on it to render the different nuances of the words. Thus, one of the paramount conditions for translating is, for example, the flawless mastering of the both the source and target languages, of the culture, of the history of a people, otherwise the translator risks distorting the features of the text. This, fortunately and unfortunately, can be done only by a human translator. Consequently, one of the most important achievements of an appropriate translation is the excellent knowledge of the two languages and cultures. The translator must always be very careful when choosing the equivalents. Two words may be equivalent in a bilingual dictionary, but they can always be used as equivalents in a translation and it is then when the translator must find a contextual equivalent. A translation, which is a creative process, must be distinguished from the translation theory, which is a special scientific discipline.

A translator's work is not at all an easy one; on the contrary it is a laborious one since a translator must work simultaneously with two different texts: the ST and the TT. This also means working with two different languages and in two different cultures at the same time. A translator must not only understand the ST, but must make that text understandable to people with a completely different linguistic and cultural background (Vîlceanu 47).

In the case of legal texts we deal with a very delicate field since such texts are among the most difficult types of specialised texts to translate given the difficult task of rendering the unique features of the legal system of the source language country. Some of the strategies that translators can use when dealing with legal texts can be borrowing original terms, naturalising some specific terms into the TL, use of language calques or use of descriptive translation, which refers to explanations and/or explanatory circumlocutions or footnotes. Yet, such techniques are only available to human translators and the exclusive use of CAT leads to huge mistakes and misunderstandings that can go unnoticed if there is not any post-editing done by a reliable and experienced translator or specialist.

Here is a list of some selected mistakes and misunderstandings taken from different legal texts and compared with two types of translations: CAT, in this particular case the translation offered by the most popular and available translation programme, Google Translate, and a human translator.

Examples of CAT – Google translations:

Original text (Romanian)	Google translation (English)	Suggested translation/ Comment
Neagoe Basarab, Petru Cercel, Despot-Vodă, Nicolaus Olahus, Johannes Honterus etc.	Neagoe Peter Earring, Despot, Nicolaus Olahus, Johannes Honterus etc.	The ST must stay the same in the SL since we deal with people's names that cannot be translated
dintre care amintim cu titlu de exemplu	by way of example	of which we can mention as examples
Pravilniceasca Condică	Conde Pravilniceasca	The ST must stay the same in the SL and a solution in this case of untranslatability would be the use of the explanatory footnotes
Alexandru Ipsilanti; Suplex Libellus Valachorum	Alexander Ypsilanti; Libellus Suplex Valachorum	The ST must stay the same in the SL since we deal with people's names that cannot be translated
Scarlat Callimachi	Scarlat Calli	The ST must stay the same in the SL since we deal with people's names that cannot be translated
Iorgovan, 1994	Lilac, 1994	The ST must stay the same in the SL since we deal with people's names that cannot be translated

Original text (Romanian)	Google translation (English)	Suggested translation/ Comment
(Chiriţă, 2008).	(rent, 2008).	The ST must stay the same in the SL since we deal with people's names that cannot be translated
Dolul viciu de consimţământ potrivit noului Cod civil	Undue influence vice of consent under the new Civil Code	Wilful misconduct vice of consent according to the new Civil Code
Dolul constă în inducerea în eroare de către o persoană a unei alte persoane, prin folosirea unor mijloace viclene, pentru a o determina să încheie un act juridic, la care altfel aceasta nu ar fi consimţit.	Undue influence is to mislead by a person to another person by using cunning means to cause it to enter into a legal act which otherwise it would not have consented.	The wilful misconduct represents the misleading of a person by another person by using evil means to cause him/her to clinch a legal act to which he/she would not have consented otherwise.
Ca şi eroarea, dolul falsifică realitatea, însă această falsă realitate este *provocată prin mijloace viclene* de către cealaltă parte contractantă. Unii autori definesc dolul ca fiind *,, o eroare provocată"* de cealaltă parte contractantă.	As the error, the fraud falsify reality, but this false reality is caused by cunning means by the other party. Some authors define the fraud as "an error caused" the other Contracting Party.	Similarly to error, the wilful misconduct falsifies reality, but this false reality is *caused by evil means* by the other contracting party. Some authors define wilful misconduct as "*an error caused*" by the other contacting party.
Unele aprecieri privind fazele procesului penal în accepţiunea Noului Cod de procedură penală	Some considerations on the phases of the trial in the sense of the New Criminal Procedure Code	Certain assessments related to the stages of the criminal proceedings in the New Code of Criminal Procedure
Răspunderea civilă presupune existenţa unei conduite generatoare de pagubă. Această definire generică permite cuprinderea in sfera răspunderii juridice atât a răspunderii ce decurge din săvârşirea unei fapte ilicite numită *răspundere civilă delictuală*, cât şi a răspunderii ce decurge din neexecutarea culpabilă sau executarea necorespunzătoare a unei obligaţii stabilită prin contract, denumită *răspundere contractuală.*	Civil liability presupposes a loss-generating behavior. This broad definition allows the inclusion in the scope of liability both legal liability arising from committing an illegal act called tort liability and responsibility arising from neexcutarea wrongful or improper performance of an obligation established by contract, called contractual liability.	Civil liability presupposes a loss-generating behaviour. This broad definition allows covering under the area of civil liability both the liability arising from committing an unlawful act called *civil liability in tort* and the liability arising from the wrongful non-performance or improper performance of an obligation established by contract, known as *contractual liability*.
De regulă, paza juridică revine proprietarului lucrului, precum şi titularului unui dezmembrământ al dreptului de proprietate	Usually legal guard work rests with the owner and holder of a dismemberment of ownership	Usually, the legal safekeeping falls upon the owner, as well as on the titular holder of a dismembered right of ownership

Conclusions

Although the translation activity was regarded as a secondary one, deserving little attention which has greatly hindered its development, everything changed in the 20th century with the emergence of translation studies, a discipline which helped translation gain its long-deserved and desired position in the academic field. The filed of translation studies nowadays involves the multi- or interdisciplinary approach of translation studies, mainly based on the cultural background and context, the intercultural transfer, linguistic, social and political aspects involved in the translation process, activity, acquisition and reception of a translated text.

Any translator's work is very laborious since (s)he must work with (at least) two languages and cultures at the same time. The tasks of any translator also include the

importance that translators play, especially nowadays, but not only. A translator cannot be defined by just one adjective, a translator and his/her tasks are multiple and interrelated, they are like a chain, one conditions the well functioning of the other and the lack of one chain link can cause a complete failure in the translation process. That is why translators and their activity, role, tasks and contributions are so highly regarded nowadays and deserve so much attention and research. A translator's work is very far from being simple or comfortable, it requires many skills, a lot of experience, dedication and also talent, but also numerous risks and threats and that is why it should (and sometimes even is nowadays) highly appreciated and praised. It is obvious that a reliable translation, be it legal, scientific, literary, etc., cannot be achieved by CAT only, it must be at least post-edited by a specialist, if not even analysed and interpreted.

The conclusion is that a translator has to understand a text very well before embarking upon translating it, paying a lot of attention to the cultural context and everything it includes. Without the deep knowledge of both the source and target languages and cultures a translation cannot be produced. Furthermore, the lack of correctly understanding and rendering such key concepts can lead to bad translations or mistranslations which can greatly affect the reception of a ST by the TT readers. Avoiding such cases should be one of the main aims of CAT users and translators who wish to have a reliable translation.

Translation is science, art and skill at the same time and I also believe that it takes inborn talent, a special "ear" for it, a lot of hard work and dedication and that not anybody who speaks a foreign language and knows how to use a dictionary can become a translator and perform a translation.

Another important danger that must be taken into account and studied further is the issue of reliability in terms of data safety since all these "free of charge" programmes and softwares are not actually free and there are huge risks of the leak of information with CAT. This is possible since the database has access both to the SL text and to the TL one in order to perform the translation and even to memorise some phrases and expressions. Nevertheless, this has the advantage of raising attention to this threat and to making people who want highly reliable and safe translation to turn to human translators instead of CAT.

Consequently, it is very important for people and users of CAT to understand that such systems are only a tool for enabling faster translations, for helping authorised translators in their work, for saving time, etc. but they are definitely not "end products" that someone can trust or use without post-editing or proof-reading since they run the risk of falling into traps.

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