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Donici, Andreea Nicoleta/NA and Maha, Andreea/A

A. I. Cuza University of Iasi, Doctoral School of Economics, A. I.
Cuza University of Iasi, Doctoral School of Economics

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THE IMPACT OF SOFT DRUG LEGALIZATION ON ROMANIA

Andreea Nicoleta Donici
“Alexandru Ioan Cuza” University of Iasi
doniciandreea@gmail.com
Andreea Maha
“Alexandru Ioan Cuza” University of Iasi
andreea.maha@gmail.com

Abstract:

This article approaches the problem of soft drugs legalization, from a liberalist point of view, underling the impact that this will have on Romania. Each year, in Romania, the number of soft drug users is increasing. Drug consumption exists and it will continue to exist, Romania being able to take advantage not only from an economic point of view. Another important thing that we have to take into account is that soft drugs do not lead to addiction, and however, continue to be prohibited by law.

Key words: soft drugs, legalization, prohibition

JEL Classification: L6

1. Introduction

Drug consumption was, it is and it will remain an intensely debated issue, by economists, politicians and ordinary people. Since 1929, the problem of soft drug legalization rose steadily, although there are some countries, like Holland, where the commercialization and consumption of this sort of substance is permitted. Moreover, these countries have some advantages, especially from an economic point of view, after taking this decision.

However, the number of countries that take into account the consumption and trade of soft drug consumption, like a unique solution in the war against drugs, remains high. Noteworthy is that the great economists promoters of economic liberalism, like Milton Friedman, Gary Becker, George Schultz, Thomas Sowell and William Niskanen, were followers of the reorientation of drug policy reforms.

In Romania, the issue of soft drug legalization has extended in the recent years and, despite some discussions concerning this particular problem, we ignore the use of such measure as an effective control of soft drug trafficking. Lately the Romanian society started to feel more and more the powerful effects of the incrimination.

2. Economists and Drug Policy

Economists have tended to be against prohibition of recreational drugs, dating back to the days of alcohol prohibition in United States of America. Turlock and McKenzie (1985) stated that: “In the early part of this century, many well-intentioned Americans objected to the consumption of alcoholic beverages. They succeeded in getting the Constitution amended to prohibit the sale of alcohol. By the 1930s most of them had given up because they discovered how difficult it was to enforce the law. If they had consulted economists, I’m sure they would have been told that the law would be very difficult and expensive to enforce. With this advice they might have decided not to undertake the program of moral elevation. The same considerations should, of course, be taken into account now with respect to other drugs.”

Irving Fisher is one of the exceptions. He is one of the U.S.A.’s greatest economists that claimed he could not find one economist to speak out against prohibition at the meeting of the *American Economic Association*, and in *The Noble Experiment*, published in 1930. Fisher remained a strong believer of the alcohol prohibition virtues: “Summing up, it may be said that Prohibition has already accomplished incalculable good, hygienically, economically and socially. Real personal liberty, the liberty to give and enjoy the full use of our faculties, is increased by Prohibition.”(Fisher 1930)

However, there are economists who have long advocated the legalization: Milton Friedman (1972, 1980, 1984 and 1989), Gary Becker (1987, 2001), George Schultz (1989), Thomas Sowell (1989) and William Niskanen (1992). But is their view important? Or is just the view of a minority? These economists that we have mentioned are associated with the Chicago School of Economics and they are liberals. Furthermore, Gary Becker is an economist whose primarily research is related to drug policy.

Economists were not always supporters of liberal drug policy, but after Prohibition in the 1920s their beliefs have changed. „Prohibition undermined respect for the law, corrupted the minions of the law, created a decadent moral climate- but did not stop the consumption of

alcohol.”(Friedman 1972). If prohibition on alcohol did not have a success, can we truly believe that it is a success on drugs? „The experience with drug enforcement shows that prohibitions of recreational drugs drive up prices, stimulate illegal activity, have only a moderate negative effect on consumption, and impose unacceptable costs in terms of high crime, expansion of prison populations, and deterioration of relations with the foreign countries that supply the outlawed products.”(Barrow 1997) So why don't we legalize it? “Legalizing drugs would simultaneously reduce the amount of crime and raise the quality of law enforcement. Can you conceive of any other measure that would accomplish so much to promote law and order?” (Friedman 1989). Legalizing does not mean that we stop fighting against drugs. We cannot end drug traffic. In drugs persuasion, examples are likely to be more effective than use of force.”An argument for legalization is that most of the harm caused by recreational drugs use comes from the fact that drugs are illegal, not that they are drugs.”(Holcombe, 1995)

Whatever happens to the number of addicts, the addict would clearly be better of, if drugs were legal. ”To be sure, legalization will increase drug use by, among other things, lowering street prices, but that can be partially offset through sizable excise taxes on producers. In many nations, retail prices of cigarettes, alcohol, and gasoline are several hundred percent higher than their wholesale prices because of large “sin” taxes on them. The revenue collected from large taxes on drugs could be used to treat addicts and educate youngsters about the harmful effects of many drugs” (Becker, 2001).

What is certain is that economists have not reached a specific conclusion on drugs policy yet, but they will continue their research and they will continue to refine our understandings of prohibition in general, and drug laws in particular.

3. Methodology - Prohibition 1920

The year 1920 has a great significance for the United States of America. In January 1919, the 18th Amendment from the Constitution was approved, which declared that manufacture, sale, possession, import and export of beverages containing more than 0,5 % alcohol is illegal. The great promoters of the prohibition called it “a noble experiment” and they hoped that it will diminish crime and corruption, and will solve some social problems, like home violence, and also that it will reduce the incarcerated population. On 28 October 1919, the American congress submitted the National Prohibition Act, known as Volstead Act, which was adopted in order to sustain Prohibition.

The Amendment and Volstead Act represented an important social reform, but, eventually, both proved to be a colossal effect in terms of alcohol consumption, health, crime, violence and corruption.

Prohibition led to increased supplied costs on the black market, because illegal suppliers faced with penalties risks for production, distribution and sale of alcoholic beverages. Prohibition reduced demand by creating some legal sanctions for possession and inducing distrust concerning the quality of products. In the same time, prohibition increased demand, by offering a forbidden fruit, consumers wanting to buy something that was prohibited for them. Therefore, the effects of prohibition were ambiguous a priori on prices and, even on quantity.

One of the most important effects of prohibition, beside the changes on price and quantity, was that crime was increasing. Participants on legal trade couldn't use the judicial and legal system for resolving disputes and, therefore, they used violence. Prohibition meant the reduction of resources for the implementation of laws which didn't have anything to do with Prohibition, and which implied crime in general. Moreover, prohibition offered black markets suppliers a stimulus for corruption of law people, such as officials and politicians.

Other two effects of prohibition were the cases of overdoses and accidental poisoning. Because suppliers from the black market had to hide their activities from the authorities, they were stimulated to produce and transport goods in the most concentrated forms. This meant that prohibition was able to make all goods more accessible or even, to contribute on the production of some stronger substances, thing that didn't change the way in which consumption took place.

Consumers on the black market couldn't sue the producers if the merchandise didn't correspond from a quality point of view and couldn't complain to the governmental agencies without incriminating themselves. Moreover, advertising costs were really high because the market was illegal, and the producers couldn't develop a reputation in terms of quality, to ensure business success. Therefore, the uncertainty related to the quality was increasing, because the alcohol market was prohibited. As a result, the appearance of overdoses and intoxications increased in prohibition period.

A representative figure for this period was Alphonse Gabriel Capone, known as Al Capone. During prohibition, Chicago, became a city of mafia and has experienced a high level of violence, especially because of the Italian mafia lead by Al Capone. In Chicago, different gangs belonging to groups of organized crime struggled to gain a share from the illegal market of alcoholic beverages.

Capone and his band “Outfits” obtained incomes from gambling and prostitution, but, especially, from illegal trade with alcoholic beverages. This mafia organization came to control a large share of Chicago`s black market, carrying out activities which brought incomes of 100 millions of dollars annually. Trucks loaded with alcohol beverages carried merchandise from the clandestine distilleries from the region, to illegal bars, which sprung up with thousands in Chicago, especially because of the probation.

The mafias were competing among themselves, and often they used to steal from the rival gangs, degenerating from a commercial war to a real war, with shooting and deaths. The state of war continued throughout the `20 and `30 period, because all the killings occurred fed the desire of revenge for the mafia members, plus the desire to win.

One of Capone`s most cruel crime that turned him into the public enemy of the American authority was the so – called “Sf. Valentine Massacre”, concocted by “Chicago Outfits” against the Bugs Moran`s gang, another important figure of America. On 14th February 1929, seven members of the rival gang, North Side, were sifting from hundreds of bullets, and the photos that appeared in newspapers in the coming days shocked the American public. Eliot Ness was the one who succeed to disarm Capone and destroyed his commercial empire. The irony is that even Capone was the king of the clandestine trade when comes to beverages, he was never convicted for violation of prohibition law, but for evasion tax.

In 1932, Capone was incarcerated in Atlanta, and than transferred to Alcatraz. But while he was serving his 11 year sentence in prison, his commercial empire collapsed, and in 1933, after 14 year of Prohibition, America, weary of a ban that had done more harm than good, abolished the Volstead Act and returned at the liberal`s morals before 1919.

On 23th March, President Franklin Roosevelt proposed a law that allowed the production and commercialization of a certain type of beer and wine. On 5th December 1933, the 21th Amendment was ratified, which conferred each state the right to prohibit the purchase or sale of alcohol. While signing the amendment, Roosevelt made a statement that has remained famous: “*I think this would be a good time for a beer*”. After the elimination of the 18th Amendment, some states continued to apply the Prohibition Act. Mississippi, the state where alcohol prohibited was since 1917, was the last state which gave up Prohibition, while in Kansas the sales of alcohol was not carried out only until 1987.

The basic idea that Prohibition has promoted was the social purification through abstinence from alcohol, but the effect was not the expected one. The alcohol black market has enjoyed a prolific period, while mafia gangs have obtained huge profits from illegal trade in alcohol.

Making a parallel between the 1920 prohibition with what is happening nowadays in Romania, we can be sure that the phenomenon of drug consumption decreased the average age of consumers, while increased the number of consumers. Therefore, as long as drugs are prohibited by law, they become more tempting, leading to the emergence of black markets, mafia, smuggling of goods, and even violence. After prohibition, alcohol consumption decreased a lot, thing that revealed that alcohol prohibition was not the best solution, as happens in case of soft drug consumption.

4. Soft drug legalization – an approach from an moral, judicial and economic point of view

Soft drug legalization remains a taboo subject in Romania. Liberals are those who believe that legalization would be an example of maturity of the Romanian society, while opponents argue strongly that this would be only a strictly European influence, and that in Romania this kind of measure, will never have the expected effects. But will soft drug legalization have a positive impact? Will this reduce the criminality? Or is just a “cool” trend, to be in line with the members of European Union?

In this moment, in Romania, drugs are blamed, primarily because they lead to addiction. There is a big difference between soft drugs and hard drugs which lead to addiction, like heroin, and have negative effects on people. The majority of person’s consider soft drug consumption, like a getaway, like a pleasant experience, which helps them relax, that reduces stress, increases the creativity, and diminishes the pains. However, even if individuals are firmly convinced that soft drugs don’t lead to addiction, people would still bring arguments to contest the legalization.

If soft drugs would be legalized, individuals will tend to believe that the number of consumers will increase, especially among youth. But this “increase” will offer only a fake picture, because a lot of people are reluctant to declare they are consumers, since drug consumption is illegal. When soft drug consumption will be legal, and drugs will be purchased at a lower price, the statistics concerning the number of consumers will show a completely different situation. The fact is that young consumers exist and the prohibition doesn’t bring any significant positive results when comes to reducing the number of consumers. As long as they insist more and more on drug

prohibition, this “prohibited fruit” becomes a temptation, especially among youth. This prohibition is forcing the price to rise, and is pushing the consumers to commit crimes.

Another aspect that the Romanian society will have to take into account after legalization is the harmful effect on health. Here often rises a dilemma: Why alcohol is legal and drugs not? The alcohol is also a harmful agent on health which can actually short life. And yet it is legal. The same happens with tobacco. We have to admit that many individuals are addicted of alcohol, caffeine or tobacco, and they are accepted by the society, despite their risks. Alcohol and tobacco consumption established before the “caring society”, and has an effect that is considered to be less harmful than the effect on soft drugs consumption. Therewith, it is difficult for an individual to quit alcohol dependency, which induces a state of good and relaxation, or to quit tobacco addiction, which induces pleasure, like sex and food do. However, in recent years more and more campaigns against these dependencies appeared, especially against alcohol or tobacco consumption. The society wants to help the consumer, through the establishment of different association for alcoholics or filters for cigarettes, nicotine patches for those who want to quite their addiction. But what happens with the numerous accidents, some of them fatal, which happened because of the careless of those who got drunk, and drove under the alcohol influence? Moreover, what about the various form of cancers (e.g. lung cancer, throat cancer) which are assumed to be a consequence of tobacco consumption? Indeed, we blame soft drugs for all the incalculable social consequences, but we can, also, try to educate individuals, as in the case of tobacco and alcohol. In 2006, a percentage of 86, 3 was related to crimes committed by persons under the influence of alcohol, while only a percentage of 1, 4 and 1, 6 was related to crimes committed by persons who consumed hashish or cannabis.(A.N.A., 2007)

Besides alcohol and tobacco, we can take into account and fast – foods, which, according to recent studies, are much unhealthier than soft drug consumption, and can, create even dependency. (Studiu: Fast-food-ul creează dependență la fel ca heroina, November 1, 2009) The study showed that the more unhealthy food you eat, you crave more and more after it, and that fast – food can create a necessary addiction for you to feel normal. However, each individual can choose to live his life as he wants to, without someone, in our case the state, telling him that something is prohibited.

John Stuart Mill sustained that each individual that lives in a society, and enjoys its facilities, owes her something, and must not cause damage to the interests of others, interests viewed as rights. As long as what we do doesn` t affects the people around us, each one of us can act as we please. Society doesn` t have the right to intervene in this situation. (John Stuart Mill, 1859) It would be absurd that some activities to be prohibited because it can make the individual to act

irresponsibly. If soft drugs should be banned on this reason, then alcohol and tobacco should be also prohibited.

Whatever happens with the number of consumers, whatever are the secondary effects of soft drugs consumption or what will happen with the responsibility of the individual, it is clear that Romanian society will not only have to lose, but also to win, and this for several reasons. Nowadays, we all know that drugs are extremely expensive and, because it is contraband merchandise, it cannot be checked under the quality aspect. Soft drug legalization will ensure a thorough inspection and, of course, a quality inspection. In this moment, we can not speak about counterfeit merchandise control. Black market, which has developed during the years and continues to develop, attracts a big number of young people. In order to have loyal customers, traffickers are introducing dangerous substance which cause addiction, a thing that could be avoid through a special control, if it would be legalized. Moreover, drug prices, even the prices of soft ones, are exorbitant. In the case of legalization, the trafficker will be motivated to maintain the price as low as possible. If there are more sellers on the market, price falls even more. But if the numbers of traffickers decreases, the price, of course, will increase. More than that, because the merchandise is prohibited by law, in addition to transportation costs, transit border points, storage and disposal, there should be added also costs for circumventing the law and costs for paying the penalties. In 2002, the gram of marijuana/cannabis, hashish and ecstasy was sold en retail on the Romanian market, an average of 9,4euro/ gram, 18,8euro/gram, respectively with 3,6euro/gram compared with 2008/2009 when were estimated at 10-20euro/gram, 15-20euro/gram, and respectively 10-20euro/gram.(Bălan, I., Moroianu, 2009)

Another aspect that has to be taken into consideration is that, on Romania territory, “the cultivation, production, manufacture, storage, trade, distribution, transportation, possession, offering, transmission, brokerage, acquisition, use, import, export and transit of plants, substances and preparations, except the ones provided by law, are prohibited on national territory.” (Law 339/2005, retrieved on March 12, 2010) Under these conditions, the import from outside, for drug manufactures, of cannabis and other substances makes drug prices to increase constantly. In some countries, for example Holland, cannabis cultivation is allowed, but only in medical purposes (e.g. sclerosis patients are allowed to cultivate cannabis to alleviate pain). Soft drug consumption is, also, accepted, in this way the number of the weed – shops, with brownies and marijuana teas are explained. Consumption legalization in Romania would provide customers what they want, and the number of individuals who have a life of delinquency and violence will drastically reduce. In 2006,

the number of crimes reached 2.695, compared with 2001 when their number was estimated at 670. (A.N.A. 2007)

Political corruption is another cost of prohibition. Prohibition pushes the drug prices, and the big difference between the production cost and the final price for sale, determines drug sellers to bribe the police, the judges, and the politicians for protection against seizure, prosecution and incarceration. In addition to the large amount of money paid for bribing the police, the traffickers have to pay high salaries to the employees. Such acts of corruption are making the legal and political system to be dysfunctional and weak the economy. Beside the fact that development of these types of business creates corruption, the unnecessary hunting of consumers and traders swallow huge amounts of money from taxpayer's money.

Romania is strongly affected by prohibition, of course in a negative way. Once a route is affected, another one opens, once a network of traffickers struck, another one stronger opens, once the access at drugs becomes harder, even for the soft ones, the consumption increases instead to decrease. It's absurd that thousands of people which are caught with a marijuana cigarette, continue to live with a record. The Romanian society has to understand that the underground economy continues to develop, and the vulnerable ones are still recruited, and that the consumers can buy their "necessary" in maximum 24 hours, and our laws can't prohibit and control the drug selling towards minors, in the same way that happens in the case of alcohol and cigarettes. Same countries already realized that the war against drugs doesn't have the desired effects, and already have made steps towards legalization of soft drug trade and consumption.

There are voices who consider that consumption legalization in Romania would be a blow to this industry, because it will mean, in addition to an efficient control of traffic, of merchandising and consumption, the reduction of public spending and unnecessary arrests associated with traffic combating. As a result, funds will be used more efficiently in public education, for treatment of serious health problems or in combating more serious crimes. Moreover, once drugs will be available for consumers, they will no longer look for large amounts of money. Such measure can lead to reduction of crimes and violence. To all this, we can add, as a "bonus", the increasing budget revenues through taxation.

The transition from prohibition to legalization can be done by introducing a special tax on the product, over the normal sale tax, named sin tax. This tax is applied already on the tobacco and alcohol, but it is also used on gasoline and other products. The lack of legal import of soft drugs from neighboring countries proves us that this is the best solution for soft drugs legalization. For

example, Holland`s government wins each year approximately 400 millions of euro from the taxes applied on marijuana products, from the 730 cafes already available. In 2008, 265.000 kilos of hashish and marijuana were sold, which meant a gross annual income estimated at 3, 2 billion euro. (Europe: Dutch Marijuana Tax Revenues at \$600 Million a Year, Crop is Country`s Third Largest Export, May 09, 2008)

Romania already had an attempt to legalize soft drugs. At the end of January 2009, the Romanian Government adopted, through emergency ordinance, a new law, according to which soft drugs become legal, and consumption under any particular form of this substances it was accepted in special places or private premises. A large number of stores opened their gates, as a measure of diminishing drug traffic. “We want some relax Romanian, happier and more optimistic on crisis time. They all became very depressed, and alcohol isn`t a solution anymore. If we can do something to improve their state of mind...I think this is the best thing we can do.” (Emil Boc, 2009)

This profitable business has maintained for 8 months, after that stores were closed, because of the increasing number of consumers and of the risks incurred, pursuant to the harmful effects of substances on health. Several organization of the civil society have strongly and unequivocally opposed to any drug decriminalization. The most important argument made in favor of closing these stores was the death of a 16 year person. After this event, other cases of intoxication were made public due to drug use. The state decided in this case, to stop the consumption of weed, the concept of drug being generalized, by the association with cocaine.

“Special problems almost always accompany special interests; violin players are always in fear of injuring their fingers and ballerinas cannot afford stubbed toes. Addiction is not in and of itself an evil. If it is legalized, it cannot possibly hurt anyone but the user of the drug. There are those who may want to speak out, educate, and advertise against it, but to prohibit it is clearly a violation of the rights of those who wish to use it.”(Walter Block, 2008)

5. Conclusions

The step which Romania has made at the beginning of 2009 should be resumed. Drugs are not responsible for the 16 years old boy`s death or for other incidents, but the mentality of Romanian society is. Romanian society is not mature enough to understand the need for drugs legalization. We do not longer live in the communist period, but in the period we face the problems directly. We do not longer live in those times, when we were required certain things and acted mechanically, but in those times when we should be aware of our actions. Romanian state should

stop acting like teachers. How long individuals can be treated like children? We must recognize that mature individuals are free and responsible for their actions, as long as they do not affect the others around them. No matter how much harm would do to himself someone who is a drugs consumer, we can not treat him as an irresponsible; we can not forbid him to have fun. Many fear that with drugs legalization, progress and civilization would stop and individual's actions would be tainted. But these are tainted continuously day by day, by other "goods": alcohol, tobacco, gaming, tiredness etc... And these are not prohibited.

What is certain is that Romanian society refuses to emancipate itself and, therefore, it is unable to perceive reality: drugs are not the real problem, but the war against drugs is. Why, after years of fighting, the number of consumers is increasing? Why this war has generated only corruption and violence? How come more dangerous and synthetic drugs have appeared? Is fight against drugs a failure? These are questions to which Romania doesn't have answers yet. A serious debate on legalizing drugs is imperative. The public must be educated, and not, pushed away with cheap propaganda and slogans such as "Drugs kill". What Romania has to do is simple: to stop living under a bell of glass and act accordingly.

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