

newsletter

## Medication on the roads

**According to European Commission statistics, 43 000 people die each year in 1.3 million road accidents, whilst 1.7 million are injured. Accidents are often down to the mistakes of drivers as a result of alcohol consumption or taking medication. It is estimated that one in four accidents is directly or indirectly caused by taking medication.**

**Impact of  
medication:  
impairment of  
reaction speed  
and driving  
ability**

According to a study conducted by British insurance company Lloyds, a strong cold is capable of impairing driving ability to the same extent as a blood alcohol level of 0.5 to 0.65 per mille. In the UK, this results in economic losses and damages amounting to GBP 350 m.

([http://www.insurance.lloydstsb.com/personal/general/mediacentre/sneeze\\_and\\_drive.asp](http://www.insurance.lloydstsb.com/personal/general/mediacentre/sneeze_and_drive.asp)).

Tests conducted in a driving simulator show that reaction speeds in participants with a cold are reduced by 11% compared to those of the control group. Severe sneezing can distract a driver's attention for two seconds. During this time, a vehicle can cover a distance of around 27 metres when travelling at 50 km/h or 45 metres at 80 km/h.

Taking medication such as cold medicine or antibiotics was also shown to result in slower reaction speeds and reduced driving ability. The same applies for operating machinery. Cough syrups often contain codeine or codeine derivatives, which can result in side effects on the central nervous system and therefore increase the risk of having an accident. A study conducted by the Norwegian Institute of Public Health confirms this.

([http://www.fhi.no/eway/default.aspx?pid=238&trg=Area\\_5954&MainLeft\\_5812=5954:0:&Area\\_5954=5825:74581::0:5955:1::0:0](http://www.fhi.no/eway/default.aspx?pid=238&trg=Area_5954&MainLeft_5812=5954:0:&Area_5954=5825:74581::0:5955:1::0:0)).

Many other pharmaceutical drugs, such as those for the treatment of hay fever, high blood pressure, epilepsy, etc have side effects which also impair reaction speeds. A fifth of all medication currently available on the market affect reaction time and have an impact on driving ability. Taking a concoction of several drugs is particularly critical, since it is often impossible to judge how serious the outcome will be taking potential interactions into account. The number of potential knock-on effects essentially increases exponentially with the number of different drugs taken. The following risk factors (1 = no impairment, 4 = severe impairment of driving ability, source: TÜV Rheinland) apply to the various groups of medication:

Medication group	Risk factor
Sleeping pills and sedatives (eg benzodiazepine)	3.5
Psychotropic drugs	2.9
Medicine for improved circulation and heart conditions	2.8
Antiallergics	2.6
Antidepressants	2.6
Stimulants	2.5
Analgesics	2.5
Antihypertensives (eg beta blockers)	1.3

**Medication for the treatment of chronic illnesses**

Where chronic illnesses are concerned, such as high blood pressure, diabetes and epilepsy, long-term medication is often required to ensure that sufferers are actually fit to drive. Taking individual circumstances into account and once they have become well-accustomed to the medication after an initial period, this kind of medication can enable sufferers to drive on the roads. For example, a person with epilepsy may be able to drive a car again after an appropriate period of time free from seizures (EU regulation: 0.5, 1 or 2 years according to country and type of seizure) and a course of long-term medication.

**Legal and insurance-related aspects**

At EU level, there are currently no uniform driving regulations in terms of taking medication. Project DRUID (Driving under the Influence of Drugs, Alcohol and Medicines, launched in 2006) aims to develop solution strategies and has the main goal of reducing the number of traffic deaths. In Germany, for example, there are no legal provisions to prevent those on medication from driving on the roads. The German Highway Code (StvO §§ 1 and 3) stipulates that all drivers are strictly responsible for their fitness to drive and must act in a manner whereby their physical or mental condition does not pose a threat to other drivers. Driving a vehicle whilst under the influence of alcohol or other intoxicating substances constitutes a breach of the law as pursuant to § 24a of the German Road Traffic Act (StVG). Taking medication as directed does not constitute a breach of the law. A breach of the law pursuant to § 316 of the German Criminal Code comes into consideration, if a driver is not in able to drive his/her vehicle safely due to taking intoxicating substances.

If it can be proved that taking medication was partly the cause of an accident, the driver committing the offence may be liable to either pay a fine, be banned from driving or receive a prison sentence; alternatively, the damage cover of their motor insurance may become invalid. Even though the insurance of the other party shall be responsible for settling the claim, a claim to damages due to a breach of obligations is also possible.

In accordance with a ruling of the Cologne Court of Appeal (ref. no.: VersR 86, 229), anybody taking medication and driving a vehicle without taking into consideration a possible impairment of their ability to drive shall be deemed to be acting in manner which is both irresponsible and grossly negligent. This applies to both prescription-only and over-the-counter medicines (self-medication). Exceptions to this are only possible for medically-prescribed medication needed to be able to work. In this instance, nevertheless, cases must be considered on an individual basis and evaluated in compliance with the law.

**Case study**

A 45-year-old male outpatient needs a gastroscopy. The patient was advised by both his GP and gastroenterologist that he should take calmativ medication and that he will therefore not be in a fit state to drive and that his reaction time would be impaired. The patient was given 30 mg of midazolame as a sedative. After the physical examination, the man remained under supervision for around 30 minutes in the examination room.

Following the examination, he was told to wait in the corridor outside the examination rooms for the post-examination discussion with the gastroenterologist. Yet the patient took it upon himself to leave straight away against the advice of the medical staff and got into his car and drove off. After a few kilometres, he drove into the oncoming traffic, collided head-on with a lorry and was pronounced dead at the scene of the accident. His widowed wife's was dismissed by both the trial court and the appellate court, however the German Federal Court of Justice came to the conclusion that the gastroenterologist should have made sure that the patient was able to put himself in danger and ordered the doctor to pay compensation for damages. The Federal Court of Justice stated that: "If a patient is sedated so heavily during outpatient medical treatment that his ability to drive is impaired for a longer period of time, the doctor in charge of treatment may be responsible for establishing appropriate measures to ensure that the patient cannot leave without being noticed."

### **Information for the underwriter**

In terms of the medical malpractice liability, the liability insurer can be affected since the personal responsibility of the driver does not absolve a doctor from his/her duty to inform patients of consequences and side effects when prescribing patients medication which can impair their fitness to drive. The doctor must ask the patient whether they are currently driving a motor vehicle. If a patient is unwilling to listen to reason, the doctor is entitled to disregard their duty of confidentiality.

In the case of outpatient medical treatment, such as gastrointestinal endoscopy, taking into account the sedatives administered and the impaired reaction speed and fitness to drive, the doctor is even responsible for establishing appropriate measures to ensure that the patient does not leave in a motor vehicle without being noticed following the treatment (VI ZR 265/02).

The number of road traffic accidents due to being under the influence of medication, alcohol and drugs has remained at a constantly high level over the past few years in Germany, along with a high estimated number of unreported cases. The combination of different medication with alcohol can often result in a potentiating effect. In light of the largely increasing trend amongst the population for self-medication with the danger of overdoses and knock-on effects, as well as taking into account the 1.9 million people in Germany who are dependant on medication, the potential hazards of medication in general is greatly underestimated. This means continually increasing exposure for motor insurers in future. Providing policyholders with specific information and raising awareness in terms of the specific issue of taking drugs and medication when driving could help risk prevention measures.

### **Contact**

AssTech GmbH  
Postfach 1211  
85766 Unterföhring bei München  
Telephone + 49 89 3844-1585  
Telefax + 49 89 3844-1586  
info@asstech.com  
www.asstech.com