ABSTRACT. This paper looks at the recent introduction of victim impact statements in several European countries. It asks whether victim impact statements are a positive addition to victim policy and practice in Europe and examines the challenges of adapting to the civil legal tradition a tool that was developed in a common law country.

KEY WORDS: crime victims, criminal justice, victim impact statements, victim participation

European criminologists and policy-makers regularly look to the United States for new and inspiring ideas on how to deal with crime and victimization. The field of victimology and victim policy in general, provide numerous examples of how ideas, philosophies, methodologies and programs travel across the Atlantic into Europe. For example, the victims’ movement, which began in the USA in the 1970s, quickly spread to Europe where it inspired the development of victim support services such as women’s shelters (Maguire 1991). Yet, while US policy and research was closely followed in Europe, Europe managed to develop and maintain its own unique approach (Maguire and Shapland 1990).

Throughout the nineties, victim impact statements were a good example of the different approaches followed in Europe and the USA. The victim impact statement is an American invention, which by the mid-nineties had been introduced in several common-law countries including Canada and Australia (Baril et al. 1990; Erez 1991). However, they were not embraced in Europe. For example, in 1996, the European Forum, a pan-European coalition of victim service providers, excluded victim impact statements from its Statement of Victims’ Rights. Even the UK, which, like the USA, is a common law country, rejected the victim impact statement. Victim Support in the UK was strongly against victim impact statements, which it viewed as providing victims with too little opportunity for participation and too late in the criminal justice process (Victim Support 1995; Reeves and Mulley 2000).

However, in the last few years there has been a major shift in opinion and European victim policy with respect to victim impact statements increasingly resembles that of the USA. In 2001, victim personal statements, which are a variant of the US victim impact statement, were introduced in England and Wales (Home Office 2000). Likewise, in 2004 the Netherlands,
which has a civil legal tradition, announced that it would introduce victim impact statements into its national courts (Ministerie van Justitie 2004).

This shift in opinion may, at least in part, be fuelled by the Council Framework Decision of the European Union (2001/220/HA), which requires that Member States ensure that victims have the possibility to be heard at appropriate stages in the criminal legal system. However, the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which was adopted in 1985 (United Nations 1985), already included this. While the UN Declaration is not legally binding, it does impose a moral obligation on Member States. Hence the question remains, why this shift in opinion towards victim impact statements in Europe?

In this paper we will examine this dramatic change in policy asking whether the introduction of victim impact statements in Europe is an example of good practice. Following a brief description of victim impact statements, victims’ needs will be discussed. Next the role of victims in the common law and civil legal traditions will be addressed and the advantages and limitations of victim impact statements for victim within these systems will be considered. Against this backdrop, research on victims’ experiences with and evaluations of victim impact statements will be presented and discussed. The paper closes with a final conclusion regarding the adaptation of this common law model in Europe.

Victim Impact Statement and Victims’ Needs

Victim impact statements consist of a written statement by the victim regarding the impact the crime had on him or her. It is an objective description of the medical, financial and emotional injuries caused by the offender. Often it is a standardized form that the victim fills in. This form is then added to the Prosecutor’s file and is given to the judge after the determination of guilt at the sentencing hearing. The victim impact statement does not permit the victim to present his or her views on sentencing. The victim is limited to discuss only the impact of the crime that is being tried. Some jurisdictions, however, such as Canada, allow victims to read their statement aloud in court.

First introduced in California in 1974 (Sullivan 1998), victim impact statements quickly spread to other states. By 1988, 48 states had passed legislation allowing input by victims at sentencing and the American Bar Association had drafted a model statute for states developing or considering such legislation (NOVA 1988). That same year, victim impact statements were introduced in Canada (Baril et al. 1990) and South Australia (Erez 1991).