

STRENGTHENING *UNIVERSITY* COOPERATION *OSIJEK – PÉCS*

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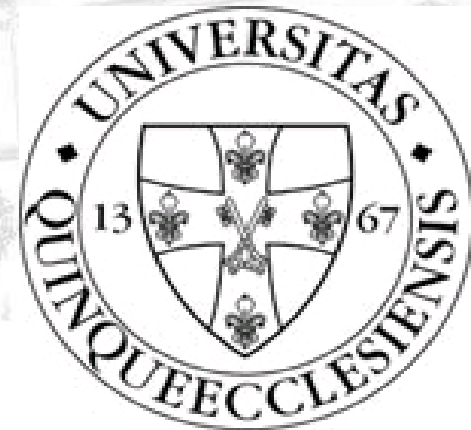


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The Legal Nature of Forced Share of the Inheritance under Croatian and Hungarian Law

Dr. Mónica Csöndes
Dubravka Klasiček, Ph.D.

CONTEMPORARY LEGAL CHALLENGES:

EU – HUNGARY – CROATIA

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Introduction



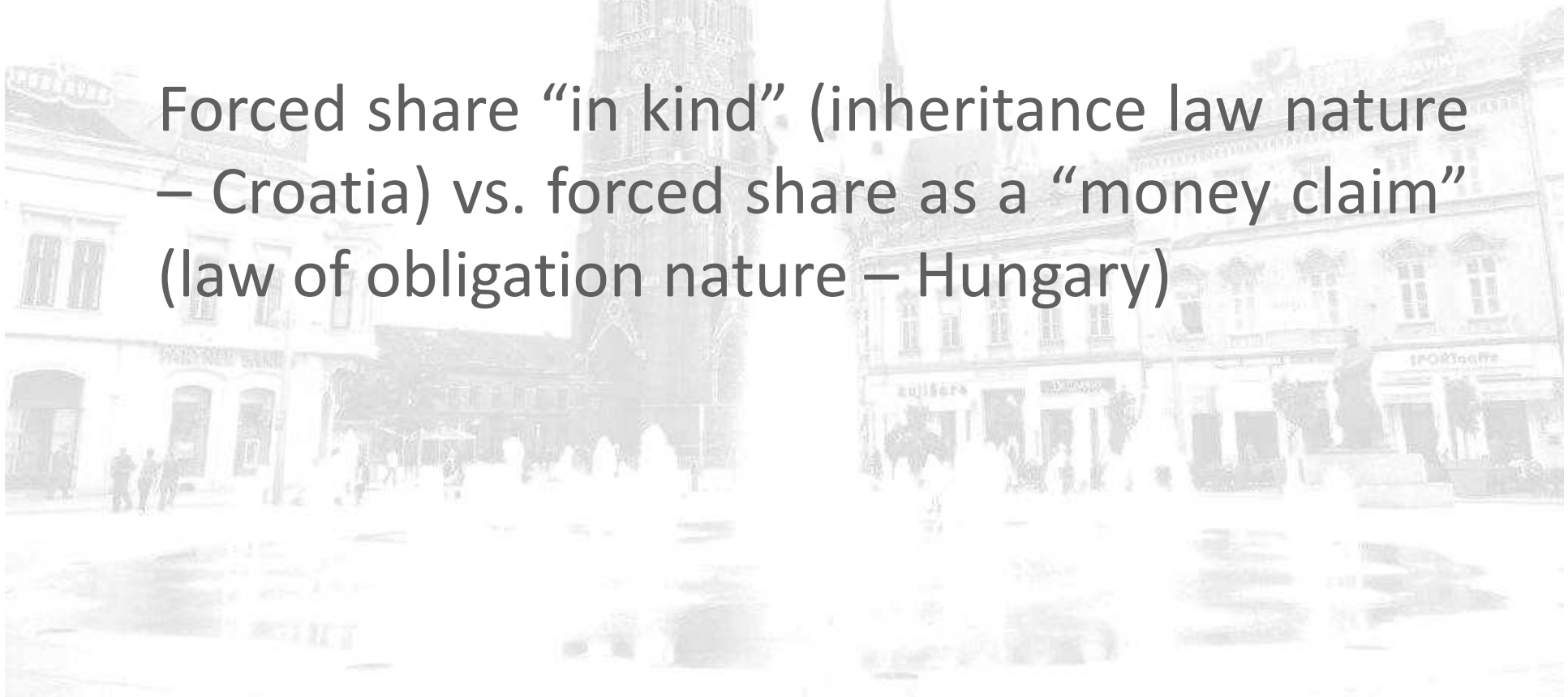
The freedom of testation is one of the main principles of inheritance law.

However, this freedom is limited in various ways in most European countries.

One of the most severe limitation of the freedom of testation is the existance of the forced share of inheritance.

The problem of legal nature of forced share

Forced share “in kind” (inheritance law nature – Croatia) vs. forced share as a “money claim” (law of obligation nature – Hungary)



Contents of the presentation:

1. the legal nature of forced share in Croatia and Hungary
3. problems with the forced share “in kind”
4. advantages of the forced share as a “money claim”
5. conclusion

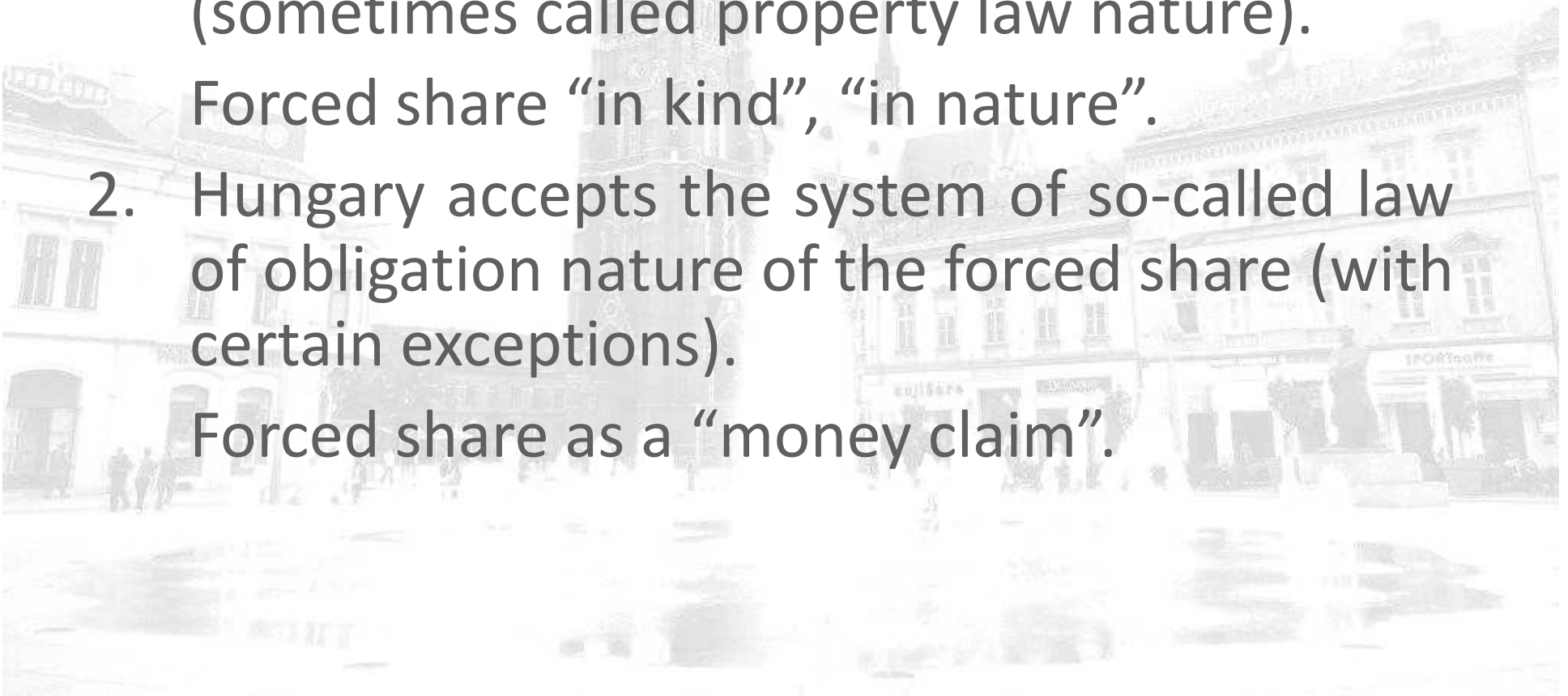
The legal nature of forced share

1. Croatia accepts the system of so-called inheritance law nature of the forced share (sometimes called property law nature).

Forced share “in kind”, “in nature”.

2. Hungary accepts the system of so-called law of obligation nature of the forced share (with certain exceptions).

Forced share as a “money claim”.

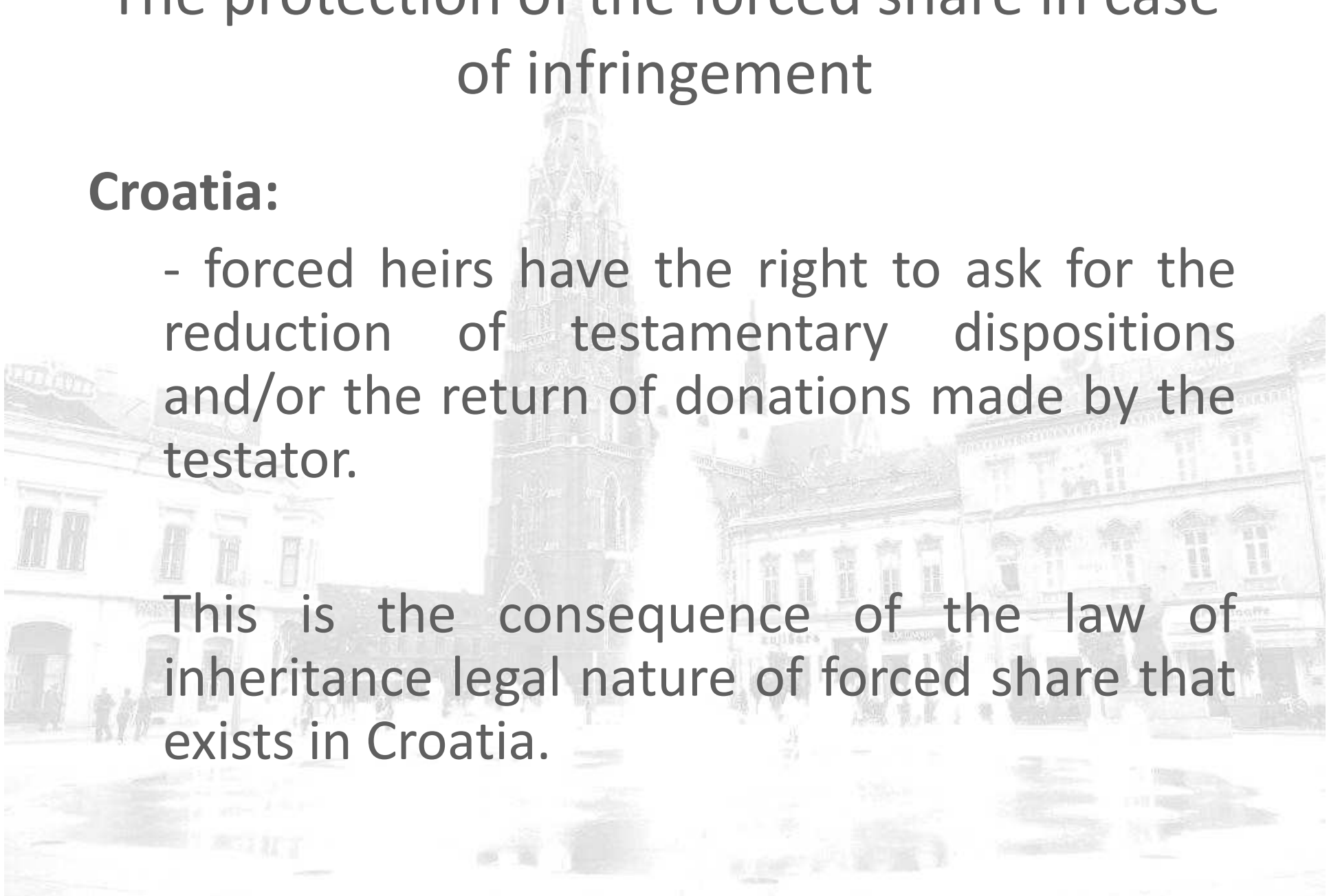


The protection of the forced share in case of infringement

Croatia:

- forced heirs have the right to ask for the reduction of testamentary dispositions and/or the return of donations made by the testator.

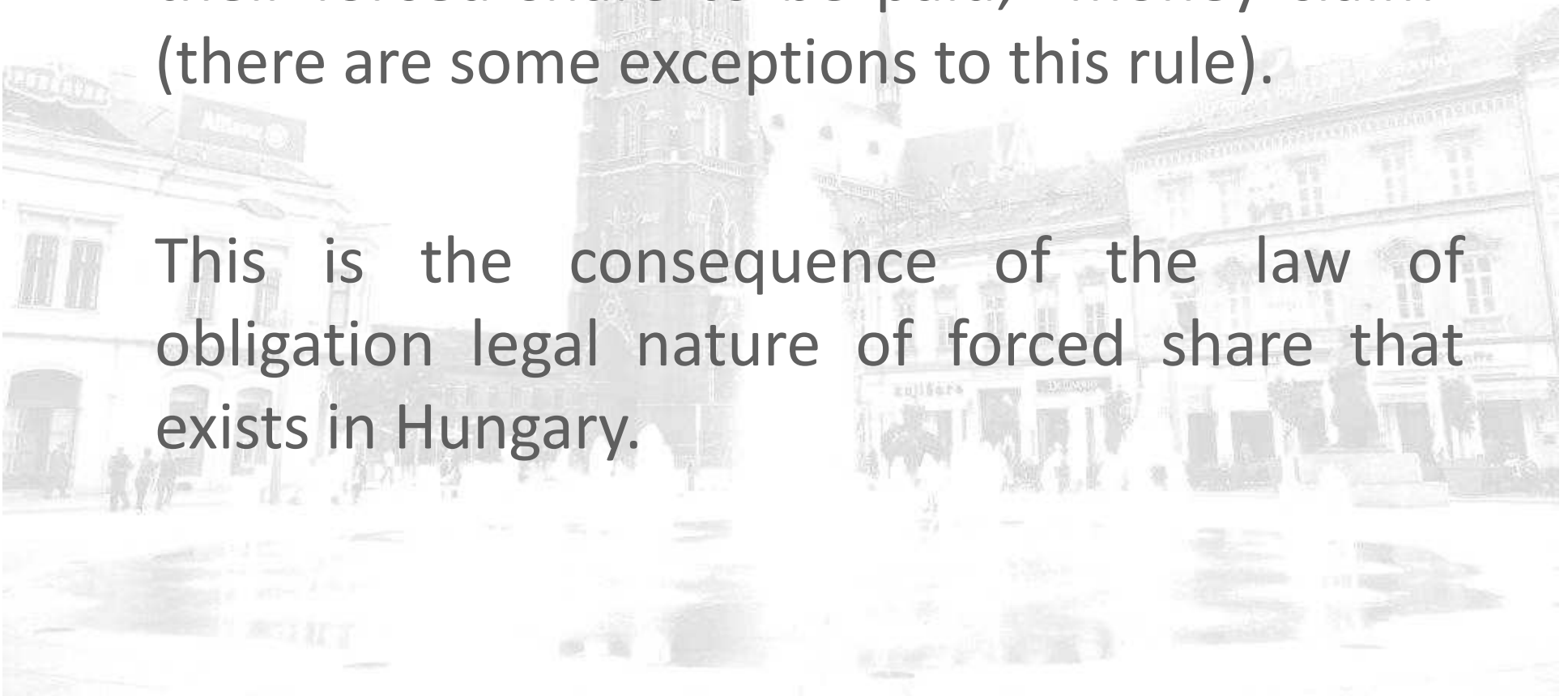
This is the consequence of the law of inheritance legal nature of forced share that exists in Croatia.



Hungary:

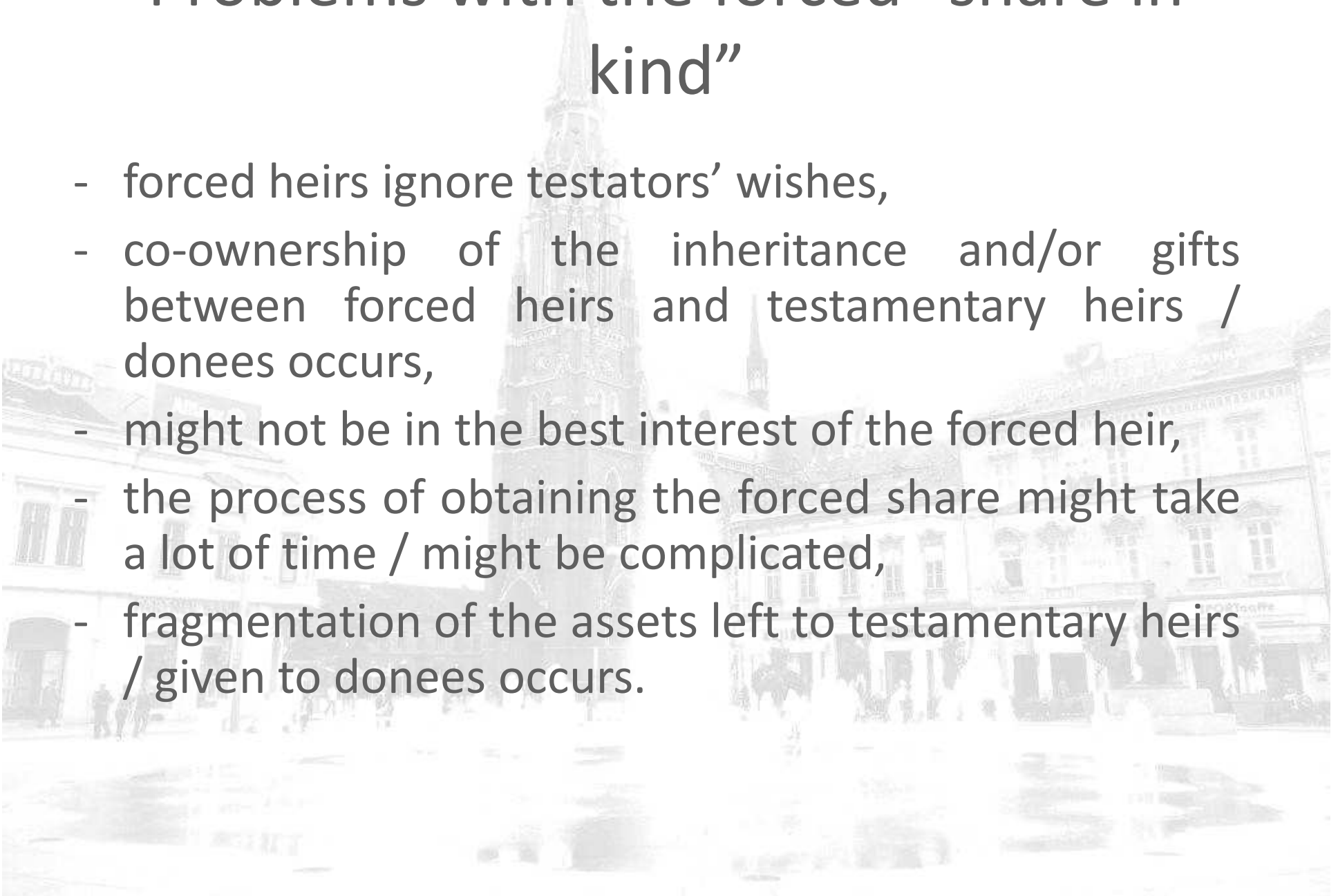
- forced heirs will be entitled to sue the testamentary heirs and/or donees and ask for their forced share to be paid, “money claim” (there are some exceptions to this rule).

This is the consequence of the law of obligation legal nature of forced share that exists in Hungary.



Problems with the forced “share in kind”

- forced heirs ignore testators’ wishes,
- co-ownership of the inheritance and/or gifts between forced heirs and testamentary heirs / donees occurs,
- might not be in the best interest of the forced heir,
- the process of obtaining the forced share might take a lot of time / might be complicated,
- fragmentation of the assets left to testamentary heirs / given to donees occurs.

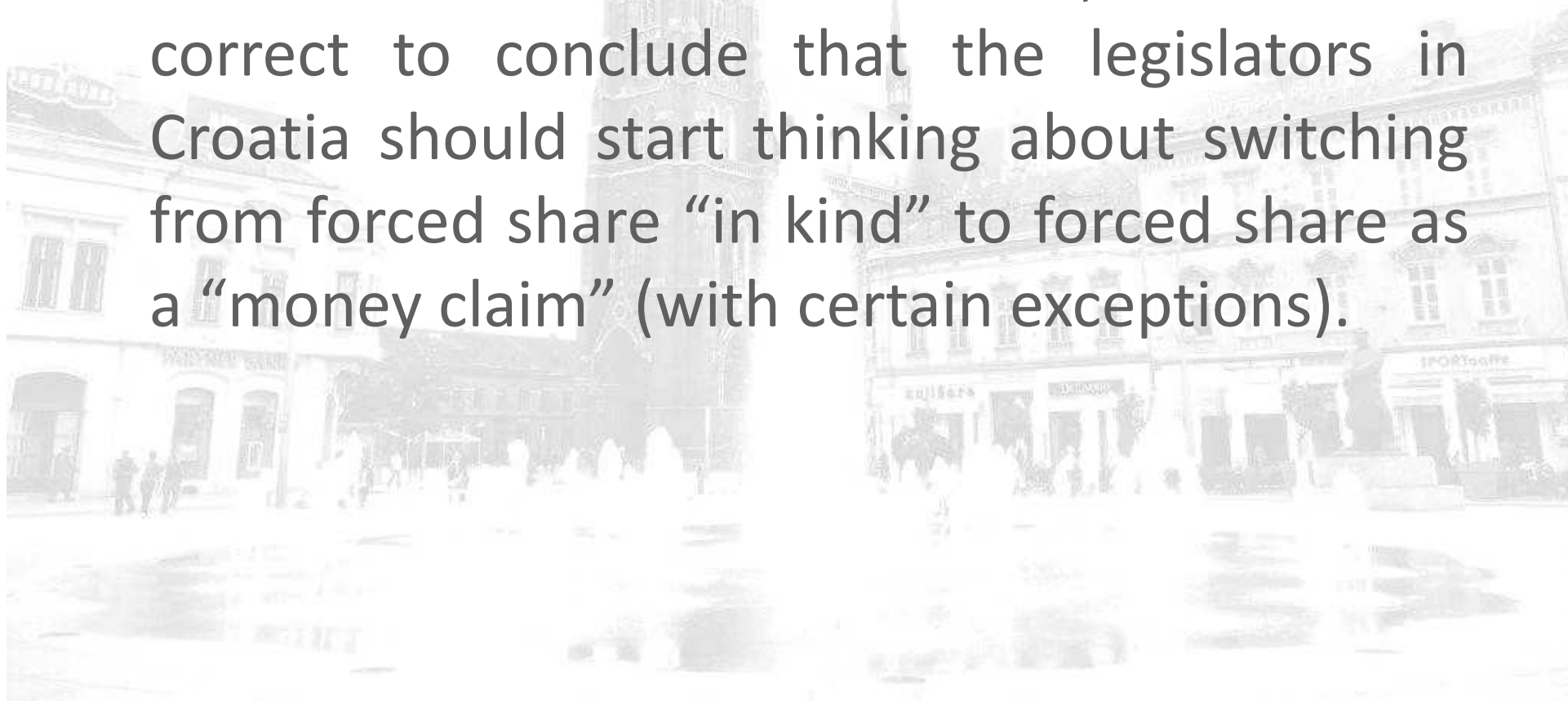


Advantages of the forced share as a “money claim”

- testators wishes expressed in his/her testament or donations are not disputed by forced heirs,
- the process of obtaining forced share is usually simplified and accelerated,
- usually less stress and altercations between all parties involved,
- forced heirs claim a certain sum of money as their forced share, which can be an advantage for those forced heirs that need the money in order to support themselves,
- the division of some valuable parts of the inheritance or donations can be avoided.

CONCLUSION

Due to all that was said before, it would be correct to conclude that the legislators in Croatia should start thinking about switching from forced share “in kind” to forced share as a “money claim” (with certain exceptions).



Thank you for your attention!

