

Delegation of Quasi-Judicial Authority and the Right of Access to Justice: A Critical Analysis of Unification of Judicial Precedent No. 786 of the General Assembly of the Supreme Court on the Decisions of the Disciplinary Board of the Construction Engineering Organization

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Abstract

Under the Engineering System and Building Control Act, the Disciplinary Board of the Construction Engineering Organization has jurisdiction over professional misconduct by its members. Although the Board is not part of the judiciary, the legislature declared its decisions "final and enforceable." This term, however, has sparked judicial disagreement, leading to Unification of Judicial Precedent No. 786 (issued by the Supreme Court's General Assembly on 14 January 2020), which held that the Board's decisions are not subject to appeal in general courts. This study critically examines the legal reasoning behind that precedent. It finds that the Assembly's interpretation of "finality" is questionable. The term "final" in Article 24 need not mean absolute immunity from judicial review; it may simply indicate exhaustion of internal disciplinary remedies. More importantly, Articles 34, 159, and 173 of the Iranian Constitution guarantee the right of access to justice and require judicial oversight over decisions of public authorities. These constitutional principles demand that the Board's decisions remain reviewable, at least on grounds of legality, jurisdictional limits, procedural fairness, and ultra vires actions. Judicial oversight does not undermine the Board's specialized expertise; rather, it reinforces the rule of law and protects individual rights. Accordingly, the article recommends that the scope of judicial review over the Board's decisions be clarified—either through legislative amendment or by reconsidering the prevailing judicial approach—to ensure alignment with constitutional safeguards. Such a step would preserve the efficiency of disciplinary proceedings while upholding fundamental rights and the principle of legality.

Keywords: Disciplinary Board of the Construction Engineering Organization; Right of Access to Justice; Judicial Review; Unification of Judicial Precedent No. 786; Engineering System and Building Control Act of Iran.

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1. Introduction

The development of professional systems and the delegation of part of regulatory functions to specialized institutions have led to the formation of numerous disciplinary authorities in the Iranian legal system. These authorities, with the aim of ensuring compliance with professional standards, maintaining public trust, and enforcing disciplinary sanctions, have jurisdiction over the investigation of violations committed by members of various professions. The Disciplinary Council of the Engineering System Organization was also established within this framework and pursuant to the Engineering and Building Control Law and has jurisdiction over disciplinary violations of engineers holding practicing licenses.

Despite the importance of this Council in ensuring the integrity of engineering activities, the legal nature of its decisions has always been a subject of debate. On the one hand, the Council operates outside the structure of the judiciary, and its members are not considered judges of the court; on the other hand, its decisions can have significant effects on the professional rights of individuals, including suspension or deprivation of employment. This very characteristic raises the fundamental question regarding the scope and quality of judicial supervision over the Council's decisions.

The divergence of practice in answering this question ultimately led to the issuance of Precedent No. 786 by the General Board of the Supreme Court. The General Board, citing Article 24 of the Engineering and Building Control Law and Article 159 of the Constitution, deemed the decisions of the Disciplinary Council final and not subject to appeal in public courts. This interpretation has been a subject of legal criticism and debate since the issuance of the precedent, as it raises the question of whether declaring a decision of a disciplinary authority "final," without explicit statutory provision, means the complete deprivation of the possibility of judicial review.

The answer to this question is not merely a matter of interpreting a legal provision, but is directly related to fundamental principles of public law, including the right of access to justice, the rule of law, the general jurisdiction of the judiciary, and the position of judicial review over the exercise of public power. In contemporary legal systems, the principle is that decisions of administrative and disciplinary authorities, even if they enjoy organizational independence, are subject to some form of judicial review to ensure compliance with the law, prevent arbitrariness, and protect the rights of individuals.

Accordingly, the aim of this study is to critically examine the reasoning foundations of Precedent No. 786 and assess its compatibility with constitutional principles, the rules governing the jurisdiction of judicial authorities, and the foundations of public law. The main hypothesis of the article is that the concept of "finality" in Article 24 of the Engineering Law is not sufficient by itself to negate the possibility of judicial review, and its interpretation must be carried out in light of constitutional principles and the rules governing the right to litigate.

2. Research Questions

1. What is the legal nature of the jurisdiction and decisions of the Disciplinary Council of the Engineering System Organization, and from the perspective of public law, under which category of adjudicatory bodies does this Council fall?
2. Is the reasoning of the General Board of the Supreme Court in Precedent No. 786, based on which the decisions of the Disciplinary Council are deemed final and unappealable, compatible with constitutional principles, the rules governing the general jurisdiction of the judiciary, and the right of access to justice?
3. What are the scope and effects of the concept of "finality" in Article 24 of the Engineering and Building Control Law, and can it be interpreted as the complete negation of judicial oversight over the decisions of the Disciplinary Council?

3. Research Hypotheses

1. Although the Disciplinary Council of the Engineering System Organization is a specialized body outside the judiciary, due to the exercise of quasi-judicial jurisdiction and the adoption of decisions affecting the rights of individuals, its decisions possess a nature that calls for judicial oversight.
2. The reasoning of Precedent No. 786, based on the unappealability of the Disciplinary Council's decisions, is not fully compatible with constitutional principles, including the general jurisdiction of the judiciary, the right to litigate, and the rule of law, and is founded on a narrow interpretation of Article 24 of the Engineering and Building Control Law.
3. The concept of "finality" in Article 24 of the Engineering and Building Control Law merely refers to the conclusion of proceedings within the administrative and disciplinary hierarchy and does not by itself indicate the elimination of judicial jurisdiction over the legitimacy and legality of the Disciplinary Council's decisions.

4. Literature Review

A review of the research literature shows that although the issue of judicial oversight over quasi-judicial and administrative authorities has attracted the attention of public law scholars in recent years, specialized research on Precedent No. 786 of the General Board of the Supreme Court and its impact on the right of access to justice is very limited. Most existing studies have focused on explaining the theoretical foundations of judicial oversight over administrative decisions, the nature of quasi-judicial authorities, the scope of judicial jurisdiction, and the guarantee of the right to litigate.

Among the related studies, Mohseni (2021) in his article "The Right to Litigate and Appeal against the Decisions of the Disciplinary Council of the Engineering and Building Control Organization" directly examines Precedent No. 786. Interpreting Article 24 of the Engineering and Building Control Law in light of Articles 34 and 159 of the Constitution, he concludes that the characterization of the decisions of the Disciplinary Council as "final" does not by itself eliminate the right to litigate, and restricting the right to refer to courts requires a clear statutory provision. Despite the importance of this research, its main focus has

been on the right to litigate, and issues related to the nature of the quasi-judicial jurisdiction of the Disciplinary Council, the foundations of delegating this jurisdiction, and its relationship with the principles governing public law have been less analyzed.

In the area of the legal nature of quasi-judicial authorities, Mobaraki, Emadzadeh, and Masoud (2017), by examining the position of specialized authorities in Iranian administrative law, considered the philosophy behind the creation of these authorities to be specialization and increasing the efficiency of the administrative system. In their view, although the delegation of adjudicatory jurisdiction to specialized authorities provides for the relative independence of these authorities, it does not remove their decisions from the realm of the rule of law and judicial oversight, and the legitimacy of the decisions of these authorities must always be assessable within the framework of public law rules. Furthermore, Miran, Al-Buyeh, and Moradi (2025) in a comparative study of judicial oversight over administrative actions in Iranian and American law, concluded that judicial oversight is one of the most important guarantees for realizing the rule of law and protecting citizens' rights, and the delegation of jurisdiction to specialized or quasi-judicial authorities does not negate the principle of judicial reviewability of their decisions.

Research conducted in the field of the right to litigate and the principle of the general jurisdiction of the judiciary has also emphasized the fundamental position of the right to refer to a judicial authority. Among these, Nasouri and Gorji (2023), by examining the concept of jurisdiction in the practice of the General Board of the Court of Administrative Justice, considered legal jurisdiction as a tool for ensuring the rule of law and protecting citizens' rights and emphasized the necessity of a narrow interpretation of exceptional jurisdictions. Also, Akbari, Rezaei-Zadeh, and Rozi-Talab in a comparative study of the criteria for exercising judicial oversight in Iranian and English administrative law, concluded that although the legislature can delegate primary adjudication to administrative or quasi-judicial authorities, the principle is the possibility of judicial oversight of the decisions of these authorities in terms of compliance with the law, the limits of jurisdiction, and the protection of individuals' rights, and any restriction on this oversight requires an explicit legal provision.

On the other hand, a part of the Iranian public law literature is dedicated to judicial oversight over administrative decisions and the position of the Court of Administrative Justice. The common thread of these studies is that the legitimacy of administrative decisions is not solely dependent on compliance with internal formalities, but the possibility of their judicial oversight is one of the prerequisites of a law-based state and a guarantor of the rule of law. Accordingly, the finality of administrative decisions is considered to refer to the conclusion of proceedings within the administrative hierarchy and does not by itself indicate the negation of the jurisdiction of judicial authorities to review the legitimacy of decisions.

A review of the set of previous studies shows that each of them has addressed only one dimension of the issue, such as the right to litigate, judicial

oversight, the nature of quasi-judicial authorities, or the jurisdiction of the Court of Administrative Justice. However, no research has been observed that simultaneously subjects the quasi-judicial nature of the Disciplinary Council of the Engineering System Organization, the foundations for delegating jurisdiction to this Council, the legal concept of "finality" in Article 24 of the Engineering and Building Control Law, and the foundations of Precedent No. 786 to critical analysis in light of the principles governing the right of access to justice, the principle of the general jurisdiction of the judiciary, and the rules of public law. Therefore, the present study seeks to fill this research gap by adopting an approach based on constitutional law and public law and to provide a comprehensive evaluation of the foundations and effects of Precedent No. 786.

5. Theoretical Foundations

5-1. Distinction between Judicial Action and Administrative Action

Analyzing the nature of the decisions of the Disciplinary Council of the Engineering Organization requires distinguishing between "judicial action" and "administrative action," because the scope of judicial oversight and the legal effects of the decisions of each depend on their nature. In Iranian public law, the mere fact that an authority investigates a dispute or violation is not sufficient for its decisions to be considered judicial; rather, the nature of the authority, the basis of jurisdiction, organizational position, composition of members, method of proceedings, and effects of the decision collectively influence the legal characterization of the decision. This view is also accepted in Iranian public law doctrine, which does not consider the mere conduct of proceedings as the criterion for distinguishing judicial action, but emphasizes the legal and organizational nature of the authority (Hashemi, 2018, Vol. 2, pp. 478-486; Tabatabai Motameni, 2020, Vol. 2, pp. 231-239; Hadaavand, 2015, pp. 185-192).

Based on Articles 61, 156, and 159 of the Constitution of the Islamic Republic of Iran, the exercise of judicial power is carried out through courts established in accordance with the law, and judicial proceedings are, in principle, within the jurisdiction of authorities affiliated with the judiciary. Article 159 also introduces the judiciary as the general authority for adjudicating grievances and complaints and makes the establishment of any specialized authority subject to legal provision. From these principles, it can be concluded that granting adjudicatory jurisdiction to an administrative authority does not by itself transform that authority into a court or confer a judicial character on its decisions. This understanding has also been emphasized in judicial practice, and Precedent No. 516 dated January 10, 1989, of the General Board of the Supreme Court has considered the principle of the general jurisdiction of the judiciary as the basis for interpreting special jurisdictions (Constitution of the Islamic Republic of Iran, Articles 61, 156, and 159; Precedent No. 516 dated January 10, 1989, of the General Board of the Supreme Court; Nasouri and Gorji, 2023).

In contrast, administrative or disciplinary authorities, even if they are tasked with adjudicating disputes or violations, are part of the administrative structure or public institutions in terms of organizational position, and their decisions are,

in principle, considered administrative or quasi-judicial decisions. In public law literature, such authorities are referred to as "quasi-judicial authorities" or "specialized administrative authorities," because while possessing some features of judicial proceedings, including hearing defenses, relative observance of procedural formalities, and issuing decisions, they differ from courts in terms of structure, organizational independence, and institutional position. Research has also shown that the philosophy behind creating these authorities is to utilize expertise and increase the efficiency of the administrative system, not to establish a judicial authority outside the judiciary (Hadaavand and Ahmadi, 2014; Nikounahad and Ghani-Kalelu, 2019; Mobaraki, Emadzadeh, and Masoud, 2017; Miran, Al-Buyeh, and Moradi, 2025).

Therefore, the characterization "quasi-judicial" refers to the manner of performing the function, not the organizational position of the authority. In other words, conducting disciplinary proceedings does not transform an administrative authority into a court; just as the imposition of disciplinary sanctions does not by itself render the decisions of that authority judicial. What matters in determining the nature of a decision is the source of jurisdiction, the institutional position of the authority, and the extent of its independence in exercising legal jurisdiction; hence, the decisions of quasi-judicial authorities, despite possessing some attributes of judicial proceedings, remain within the realm of administrative acts and are, in principle, subject to judicial oversight in terms of legitimacy and compliance with the law (Tabatabai Motameni, 2020, Vol. 2; Hashemi, 2018, Vol. 2; Akbari, Rezaei-Zadeh, and Rozi-Talab, 2016; Miran, Al-Buyeh, and Moradi, 2025).

5-2. The Legal Nature of the Disciplinary Council of the Engineering System Organization

The Disciplinary Council of the Engineering System Organization was established pursuant to the Engineering and Building Control Law enacted in 1995, and its jurisdiction is limited to investigating disciplinary violations of the organization's members. This Council is not part of the judiciary, and its members are not selected according to the rules governing the appointment of judges. Therefore, although the Council's decisions can have significant legal effects, including reprimand, suspension, or deprivation of professional practice, the mere possession of such effects is not sufficient for the nature of the Council or its decisions to be considered judicial. In public law, the judicial character of an authority depends on the source of jurisdiction, organizational position, manner of formation, institutional independence, and its affiliation with the judicial system, not merely the issuance of binding decisions or the adjudication of disputes and violations (Engineering and Building Control Law, enacted 1995, Articles 21 to 24; Constitution of the Islamic Republic of Iran, Articles 61, 156, and 159; Hashemi, Constitutional Law of the Islamic Republic of Iran, 2018, Vol. 2; Tabatabai Motameni, Administrative Law, 2020, Vol. 2; Mobaraki, Emadzadeh, and Masoud, 2017).

In comparative law as well, many professional bodies, including medical, engineering, and bar associations, have specialized disciplinary authorities, and

their decisions are, in principle, subject to some form of judicial oversight. The philosophy behind this oversight is not to replace the specialized authority with a court or to interfere in technical judgments, but rather to ensure compliance with the law, control the limits of jurisdiction, prevent abuse of power, and protect the rights of individuals. Therefore, in public law literature, the separation between "specialized adjudication" and "judicial oversight" has been accepted as one of the requirements of a law-based state, and the independence of disciplinary authorities is not considered an obstacle to the possibility of judicial review of the legitimacy of their decisions (Craig, *Administrative Law*, 9th ed., 2021; Cane, *Administrative Law*, 5th ed., 2011; Miran, Al-Buyeh, and Moradi, 2025; Akbari, Rezaei-Zadeh, and Rozi-Talab, "A Comparative Study of the Criteria for Exercising Judicial Oversight in Iranian and English Administrative Law").

5-3. The Principle of the Rule of Law and the Necessity of Judicial Oversight

The principle of the rule of law is one of the most fundamental principles of public law and requires that all authorities exercising public power, whether judicial, administrative, or disciplinary, act within the limits of their legal jurisdiction, and that their decisions be subject to legal oversight. The philosophy behind this oversight is not to replace the specialized authority with a judicial authority, but rather to ensure compliance with the law, prevent arbitrariness, guarantee equality before the law, and protect the rights of individuals. In public law thought, judicial oversight is considered one of the most important tools for realizing the law-based state and controlling the exercise of public power (Hashemi, *Constitutional Law of the Islamic Republic of Iran*, 2018, Vol. 2, pp. 465-488; Tabatabai Motameni, *Administrative Law*, 2020, Vol. 2, pp. 228-245; Craig, *Administrative Law*, 9th ed., 2021, pp. 3-25; Cane, *Administrative Law*, 5th ed., 2011, pp. 187-214).

In the legal system of the Islamic Republic of Iran, the right to litigate is recognized as one of the fundamental rights of citizens in Article 34 of the Constitution. According to this article, the right to litigate is an inalienable right of every individual, and every person may refer to competent courts to vindicate their rights. This right is considered one of the most important guarantees for the implementation of the rule of law, and any restriction on it must be based on an explicit legal provision and interpreted narrowly. Public law doctrine also emphasizes that the right to litigate is a fundamental right, and the principle is the ability to refer to a judicial authority, not deprivation thereof (Constitution of the Islamic Republic of Iran, Article 34; Hashemi, 2018, Vol. 2, pp. 358-365; Mohseni, 2021; Nasouri and Gorji, 2023).

Furthermore, Article 159 of the Constitution introduces the judiciary as the official authority for adjudicating grievances and complaints, and Article 173, by providing for the Court of Administrative Justice, guarantees judicial oversight over the decisions and actions of government units and their officials. Although the scope of the jurisdiction of public courts and the Court of Administrative Justice is determined by ordinary laws, the interpretation of these laws must be

such as to be compatible with the right to litigate, the rule of law, and the principle of the general jurisdiction of the judiciary. Judicial practice has also emphasized in various cases the necessity of a narrow interpretation of exceptional jurisdictions and the preservation of the possibility of referring to a judicial authority (Constitution of the Islamic Republic of Iran, Articles 159 and 173; Court of Administrative Justice Law enacted 2023; Precedent No. 516 dated January 10, 1989, of the General Board of the Supreme Court; Nasouri and Gorji, 2022; Miran, Al-Buyeh, and Moradi, 2025).

On this basis, the mere use by the legislature of the word "final" regarding the decisions of an administrative or disciplinary authority, without explicit provision for the elimination of the possibility of judicial oversight, does not necessarily mean the negation of any reference to a judicial authority. Determining the legal effects of such a phrase requires a harmonious interpretation of ordinary law with constitutional principles, the rule of law, the right to litigate, and the rules governing the narrow interpretation of exceptional jurisdictions. Therefore, the interpretation of Article 24 of the Engineering and Building Control Law must be carried out in light of the set of public law rules and constitutional principles, and not merely on the basis of a literal understanding of the word "final." This approach is also consistent with accepted foundations of administrative law and the theory of judicial oversight over the exercise of public power (Engineering and Building Control Law, Article 24; Mohseni, 2021; Akbari, Rezaei-Zadeh, and Rozi-Talab, "A Comparative Study of the Criteria for Exercising Judicial Oversight in Iranian and English Administrative Law"; Craig, 2021, pp. 569–598; Cane, 2011, pp. 332–355).

Summary of Theoretical Foundations

From the foregoing discussions, it can be concluded that the Disciplinary Council of the Engineering System Organization, despite possessing disciplinary jurisdiction, falls under the category of specialized administrative or quasi-judicial authorities from the perspective of public law structure. Therefore, examining the possibility of judicial oversight over the decisions of this Council must be carried out based on an analysis of its legal nature, constitutional principles, the concept of the right to litigate, and the foundations governing judicial oversight over the exercise of public power. These foundations provide the theoretical framework necessary for analyzing and evaluating Precedent No. 786 of the General Board of the Supreme Court.

6. Analysis and Critique of Precedent No. 786 of the General Board of the Supreme Court

6-1. The Reasoning Foundations of Precedent No. 786

The divergence of practice among public courts regarding the possibility of appealing the decisions of the Disciplinary Council of the Engineering System Organization led to the matter being raised before the General Board of the Supreme Court and the issuance of Precedent No. 786 dated January 14, 2020. This precedent, with the aim of resolving the conflict among court decisions, answered the question of whether the final decisions of the Disciplinary Council of

the Engineering System Organization are subject to appeal and adjudication in public courts. The importance of this precedent lies in the fact that for the first time, it has directly interpreted the relationship between the "finality" of the Disciplinary Council's decisions and the general jurisdiction of the judiciary (Precedent No. 786 dated January 14, 2020, of the General Board of the Supreme Court; Mohseni, 2021; Engineering and Building Control Law, Article 24).

The main basis of the General Board's reasoning can be summarized in two axes. First, reliance on Article 24 of the Engineering and Building Control Law, which describes the decisions of the Disciplinary Council as "final and enforceable." Second, reliance on Article 159 of the Constitution, which makes the establishment of adjudicatory authorities subject to legal provision. On this basis, the General Board concluded that since the legislature has not provided for another authority for appealing the decisions of the Disciplinary Council, public courts also do not have jurisdiction to hear appeals against these decisions. In fact, the precedent inferred the lack of jurisdiction of public courts from the legislature's silence regarding the appellate authority (Precedent No. 786 dated January 14, 2020; Constitution of the Islamic Republic of Iran, Article 159; Engineering and Building Control Law, Article 24; Hashemi, 2018, Vol. 2, pp. 521-527).

This reasoning is based on two presuppositions: first, that the word "final" in Article 24 of the Engineering and Building Control Law means the complete end of the possibility of judicial proceedings and the elimination of any court oversight; second, that the principle of court jurisdiction requires that in the absence of a legal text, a court cannot assume jurisdiction for itself. However, the validity of both presuppositions is subject to debate in public law doctrine, because on the one hand, the legal concept of "finality" in many laws refers to the conclusion of proceedings within the administrative or disciplinary hierarchy and does not necessarily mean the negation of judicial oversight, and on the other hand, the principle of the general jurisdiction of the judiciary and the right to litigate require that restrictions on the jurisdiction of judicial authorities be accepted only with an explicit and unequivocal legislative provision. Therefore, assessing the correctness of Precedent No. 786 requires a critical examination of these two presuppositions in light of constitutional principles and the rules governing public law (Mohseni, 2021; Nasouri and Gorji, 2023; Tabatabai Motameni, 2020, Vol. 2; Hashemi, 2018, Vol. 2).

Therefore, it is necessary to examine whether the aforementioned presuppositions are compatible with constitutional principles, the foundations of public law, and the practice governing judicial oversight over administrative decisions.

6-2. The Concept of "Finality" in the Decisions of Disciplinary Authorities

6-2-1. Critique of the Interpretation of the Concept of "Finality" in Article 24 of the Engineering Law

The first question is what the legislature intended by the "finality" of the Disciplinary Council's decisions. In administrative law and procedural law, the word "finality" does not always have a single meaning and, depending on the context, may merely refer to the conclusion of proceedings within the same administrative or disciplinary system, not the absolute negation of any judicial oversight.

In public law literature as well, a distinction has been made between "administrative finality" and "immunity from judicial oversight," and it has been emphasized that the conclusion of proceedings in a specialized authority does not necessarily mean the elimination of the jurisdiction of judicial authorities (Tabatabai Motameni, *Administrative Law*, 2020, Vol. 2, pp. 325–333; Hashemi, *Constitutional Law of the Islamic Republic of Iran*, 2018, Vol. 2, pp. 521–528; Craig, *Administrative Law*, 9th ed., 2021, pp. 569–590).

In many special laws, the decisions of administrative or disciplinary boards have been declared "final," but this finality has not prevented the exercise of judicial oversight over the legitimacy of the decisions of those authorities. In such cases, the concept of finality usually means that after the internal stages provided for by law have been completed, the decision is considered final in terms of the administrative hierarchy, not that any judicial oversight over it is excluded. This understanding is also more compatible with the philosophy underlying judicial oversight over the exercise of public power and the principle of the rule of law (Court of Administrative Justice Law enacted 2023; Miran, Al-Buyeh, and Moradi, 2025; Akbari, Rezaei-Zadeh, and Rozi-Talab, "A Comparative Study of the Criteria for Exercising Judicial Oversight in Iranian and English Administrative Law"; Cane, *Administrative Law*, 5th ed., 2011, pp. 332–355).

On this basis, the mere use of the word "final" in Article 24 of the Engineering and Building Control Law, without explicit provision for the elimination of the possibility of referring to a judicial authority, does not seem sufficient by itself to conclude the absolute prohibition of judicial oversight. The interpretation of such a phrase must be carried out with consideration of the entire legal system, constitutional principles, the principle of the general jurisdiction of the judiciary, and the rules governing the right to litigate, not merely on the basis of a literal understanding of the word "final." In public law doctrine as well, restrictions on the right to litigate have been considered to require a clear and unequivocal legal provision (Engineering and Building Control Law, Article 24; Constitution of the Islamic Republic of Iran, Articles 34, 159, and 173; Mohseni, 2021; Nasouri and Gorji, 2023; Hashemi, 2018, Vol. 2).

However, in opposition to this view, it can be argued that in some special laws, by specifying the finality of decisions, the legislature intended to end the proceedings, and in the absence of provision for appeal, no new jurisdiction should be created for the courts. This view relies on the principle of legality of the jurisdiction of judicial authorities and is also considered one of the foundations of Precedent No. 786. Nevertheless, accepting this argument requires that the legislature's silence explicitly and unambiguously indicate the elimination of the right to refer to a court, because according to the interpretive principles of public law, exceptions to the principle of the general jurisdiction of the judiciary and the right to litigate must be interpreted narrowly and cannot be inferred merely from legislative silence (Precedent No. 786 dated January 14, 2020; Constitution of the Islamic Republic of Iran, Articles 34 and 159; Tabatabai Motameni, 2020, Vol. 2; Craig, 2021, pp. 575–590).

6-3. The Nature of the Disciplinary Council and Its Effects on Determining the Scope of Judicial Oversight

One of the fundamental points in evaluating Precedent No. 786 is attention to the legal nature of the Disciplinary Council of the Engineering System Organization. This Council was established pursuant to the Engineering and Building Control Law enacted in 1995, and its jurisdiction is limited to investigating disciplinary violations of the organization's members. Despite possessing adjudicatory jurisdiction, the Council is not part of the judiciary in terms of organizational position, and its members are not selected according to the rules prescribed for the appointment of judges. Therefore, the mere delegation of disciplinary jurisdiction to this Council is not sufficient for its nature or the decisions issued by it to be considered judicial (Engineering and Building Control Law, enacted 1995, Articles 21 to 24; Constitution of the Islamic Republic of Iran, Articles 61, 156, and 159; Hashemi, *Constitutional Law of the Islamic Republic of Iran*, 2018, Vol. 2, pp. 478–486; Tabatabai Motameni, *Administrative Law*, 2020, Vol. 2, pp. 231–239).

Therefore, although the Disciplinary Council employs some similar procedural mechanisms in its proceedings, including hearing defenses, examining evidence, and issuing decisions, these features alone are not sufficient for its nature to be considered judicial. In public law literature, such authorities are classified as quasi-judicial or specialized administrative authorities; authorities that, due to possessing specialized jurisdiction and exercising public authority, issue decisions with legal effects, but these effects do not change the administrative character of the decision. Research has also emphasized that the philosophy behind creating quasi-judicial authorities is specialization and efficiency in proceedings, not the creation of a court outside the judiciary (Mobaraki, Emadzadeh, and Masoud, 2017; Miran, Al-Buyeh, and Moradi, 2025; Craig, *Administrative Law*, 9th ed., 2021, pp. 569–590; Cane, *Administrative Law*, 5th ed., 2011, pp. 332–355).

On this basis, the mere fact that the legislature has delegated disciplinary jurisdiction to the Disciplinary Council does not necessarily mean the complete removal of its decisions from the scope of judicial oversight. What matters in public law is the distinction between merits review and judicial review of legality. In this framework, the judicial authority does not replace the specialized authority in technical or disciplinary determinations, but merely controls compliance with the law, the limits of jurisdiction, the principles of fair procedure, the proportionality of the decision with legal authority, and the absence of deviation from the legislative purpose. Therefore, judicial oversight over the legality of the Disciplinary Council's decisions does not conflict with the specialized independence of this authority and is in fact one of the guarantees for the implementation of the rule of law and the protection of individuals' rights (Constitution of the Islamic Republic of Iran, Articles 34, 159, and 173; Tabatabai Motameni, 2020, Vol. 2; Miran, Al-Buyeh, and Moradi, 2025; Akbari, Rezaei-Zadeh, and Rozi-Talab, "A Comparative Study of the Criteria for Exercising Judicial Oversight in Iranian and English Administrative Law"; Craig, 2021, pp. 591–620).

6-4. The Relationship of the Precedent with the Principle of the Right to Litigate

Article 34 of the Constitution of the Islamic Republic of Iran recognizes the right to litigate as an inalienable right of every individual and considers access to competent courts as one of the fundamental rights of citizens. Furthermore, Article 159 introduces the judiciary as the official authority for adjudicating grievances and complaints, and Article 173, by providing for the Court of Administrative Justice, recognizes judicial oversight over the decisions and actions of administrative authorities as one of the mechanisms for guaranteeing the rule of law. The sum of these principles indicates that judicial protection of individuals' rights is one of the fundamental foundations of Iran's public law system, and any restriction on this right requires an explicit legal basis and narrow interpretation (Constitution of the Islamic Republic of Iran, Articles 34, 159, and 173; Hashemi, *Constitutional Law of the Islamic Republic of Iran*, 2018, Vol. 2, pp. 358–365 and 518–527; Tabatabai Motameni, *Administrative Law*, 2020, Vol. 2, pp. 268–278; Mohseni, 2021).

The fundamental question is whether the silence of the Engineering and Building Control Law regarding the appellate authority is sufficient by itself to restrict the right to litigate. The answer to this question depends on how the relationship between ordinary law and constitutional principles is interpreted. If the principle is the ability to refer to a judicial authority, any restriction on this right must be established by an explicit and unequivocal legislative provision. In contrast, if the legislature's silence is considered as negating the court's jurisdiction, the result will be the restriction of judicial oversight over the decisions of the disciplinary authority and the expansion of the exception to the principle of the general jurisdiction of the judiciary; an interpretation that, according to the fundamental principles of public law, requires caution and clear justification (Engineering and Building Control Law, Article 24; Constitution of the Islamic Republic of Iran, Articles 34 and 159; Nasouri and Gorji, 2023; Miran, Al-Buyeh, and Moradi, 2025).

It seems that accepting the second interpretation requires a more explicit legal justification, because restricting one of the fundamental rights of individuals should not be based on a broad interpretation of legislative silence. At the same time, this conclusion does not mean ignoring the principle of legality of court jurisdiction, but rather indicates that the principle of legality of jurisdiction must also be applied in light of the Constitution and the principle of narrow interpretation of restrictions on fundamental rights and freedoms. Therefore, whenever two interpretations of an ordinary law are possible, the interpretation that is more compatible with the right to litigate, the rule of law, and the principle of the general jurisdiction of the judiciary will be more consistent with constitutional standards (Precedent No. 786 dated January 14, 2020; Hashemi, 2018, Vol. 2; Tabatabai Motameni, 2020, Vol. 2; Craig, *Administrative Law*, 9th ed., 2021, pp. 569–598; Cane, *Administrative Law*, 5th ed., 2011, pp. 332–355).

This interpretation faces difficulty from the perspective of public law principles, because according to the principle of narrow interpretation of restrictions

on fundamental rights, the elimination of the right to litigate requires an explicit and unequivocal legislative provision, and mere legislative silence does not have sufficient significance to create such a restriction.

6-5. Final Evaluation of the Precedent

In light of the foregoing discussions, it can be concluded that Precedent No. 786 dated January 14, 2020, has a defensible legal basis in terms of reliance on the principle of legality of the jurisdiction of judicial authorities, and cannot be considered lacking legal justification. However, the manner in which the General Board interpreted the concept of "finality" in Article 24 of the Engineering and Building Control Law and its effects is open to consideration from the perspective of public law and constitutional principles. In particular, the precedent relies more on a literal understanding of the phrase "final and enforceable" than on a harmonious interpretation of ordinary law with constitutional principles, including the right to litigate and the principle of the general jurisdiction of the judiciary; an understanding that does not negate the possibility of alternative interpretive readings (Precedent No. 786 dated January 14, 2020; Engineering and Building Control Law, Article 24; Constitution of the Islamic Republic of Iran, Articles 34, 159, and 173; Hashemi, *Constitutional Law of the Islamic Republic of Iran*, 2018, Vol. 2; Tabatabai Motameni, *Administrative Law*, 2020, Vol. 2; Mohseni, 2021).

Of course, this analysis does not mean proving the incorrectness of the precedent or negating its validity; rather, it shows that the reasoning foundations of the precedent have the capacity for different interpretive readings in light of the Constitution and the rules of public law. The final evaluation of this matter requires a coherent examination of similar practices, analysis of related decisions of the Supreme Court and the Court of Administrative Justice, study of public law doctrine, and precise explanation of the position of disciplinary authorities in Iran's legal system. Nevertheless, the findings of the present study indicate that from Article 24 of the Engineering and Building Control Law, an interpretation more compatible with constitutional principles can be offered; an interpretation that, while preserving the independence and specialized jurisdiction of the Disciplinary Council, also preserves the possibility of judicial oversight over the legality of its decisions as one of the prerequisites of the rule of law and a guarantee of the right to litigate (Constitution of the Islamic Republic of Iran, Articles 34, 159, and 173; Nasouri and Gorji, 2023; Miran, Al-Buyeh, and Moradi, 2025; Craig, *Administrative Law*, 9th ed., 2021, pp. 591–620; Cane, *Administrative Law*, 5th ed., 2011, pp. 332–355).

6-6. Critical Evaluation of the Arguments in Favor of Precedent No. 786

One of the fundamental standards of legal research is the fair examination of both supportive and opposing views before reaching a conclusion. Therefore, the critique of Precedent No. 786 will have sufficient scientific rigor only when the most important foundations in its favor are also independently evaluated; because critical analysis requires the simultaneous assessment of the strengths and weaknesses of both supportive and opposing arguments, and only in this way can a conclusion consistent with the principles of legal methodology be

reached (Precedent No. 786 dated January 14, 2020; Hashemi, Constitutional Law of the Islamic Republic of Iran, 2018, Vol. 2; Tabatabai Motameni, Administrative Law, 2020, Vol. 2).

a) Reliance on the Principle of Legality of Court Jurisdiction

The first and most important argument in defense of the precedent is the principle of legality of the jurisdiction of judicial authorities. According to Article 159 of the Constitution, the establishment of courts and the determination of their jurisdiction are subject to legal provision. On this basis, some believe that whenever the legislature has not designated a specific authority for appealing the decisions of an administrative or disciplinary authority, public courts will also not have jurisdiction to hear the matter. This understanding is based on the premise that judicial jurisdiction is a legal matter and cannot be created without a legal text (Constitution of the Islamic Republic of Iran, Article 159; Precedent No. 786 dated January 14, 2020; Hashemi, 2018, Vol. 2, pp. 518–527).

This argument is significant in terms of the principles of procedural law and the principle of legality of jurisdiction, because court jurisdiction cannot be established through analogy or expansive interpretation. However, the fundamental question is whether legislative silence, by itself, indicates the elimination of court jurisdiction. In public law, there is a difference between the absence of a text for creating jurisdiction and the presence of a text for eliminating jurisdiction. Restricting the right to litigate, due to its direct connection with the fundamental rights of individuals, requires a clear and explicit legal provision and cannot be inferred merely from legislative silence. Therefore, reliance on the principle of legality of jurisdiction, although justifying part of the reasoning of the precedent, does not appear sufficient by itself for the complete negation of judicial oversight (Constitution of the Islamic Republic of Iran, Articles 34 and 159; Mohseni, 2021; Nasouri and Gorji, 2023; Tabatabai Motameni, 2020, Vol. 2).

b) Reliance on the Will of the Legislature

The second argument is that the legislature, by employing the phrase "final and enforceable" in Article 24 of the Engineering and Building Control Law, has declared its will for the conclusion of proceedings. Therefore, an opposing interpretation would ignore the legislator's will. This argument is based on the literal interpretation of the law and the principle of respect for the legislator's will (Engineering and Building Control Law, Article 24; Precedent No. 786 dated January 14, 2020).

This argument also apparently follows the logic of literal interpretation of laws, but in public law, the apparent meaning of words is only one element of interpretation and cannot be relied upon independently of the Constitution, the legislator's purpose, and the coherence of the legal system. Whenever a legal phrase admits of more than one interpretation, the interpretation that is more compatible with fundamental rights, the rule of law, and the right to litigate should be preferred. Therefore, even if the word "final" indicates the conclusion of proceedings within the organizational structure of the Council, this does not necessarily mean the negation of any judicial oversight, unless the legislature

has explicitly provided for such an effect (Constitution of the Islamic Republic of Iran, Articles 34, 159, and 173; Hashemi, 2018, Vol. 2; Tabatabai Motameni, 2020, Vol. 2; Craig, *Administrative Law*, 9th ed., 2021, pp. 569–590).

c) The Necessity of Preserving the Independence of Specialized Authorities

Another argument raised in defense of the precedent is the necessity of preserving the independence of specialized authorities. According to this view, disciplinary authorities, due to their specialized knowledge and experience, are more suitable than public courts for the identification of professional violations, and the expansion of judicial oversight may weaken their independence and efficiency. This argument is based on the philosophy of establishing specialized authorities and the principle of specialization in administrative law (Mobaraki, Emadzadeh, and Masoud, 2017; Miran, Al-Buyeh, and Moradi, 2025; Cane, *Administrative Law*, 5th ed., 2011, pp. 332–355).

This argument is worthy of consideration from the perspective of legal policy, but there is a fundamental difference between independence in specialized decision-making and immunity from judicial oversight. Judicial oversight over the legality of decisions does not mean the replacement of the court for the specialized authority or interference in technical determinations. The court can, without interfering in specialized assessments, merely control compliance with the law, the limits of jurisdiction, the essential formalities of proceedings, and defense rights. Such oversight not only does not undermine the independence of the specialized authority but is also compatible with increasing accountability, legitimacy, and public trust in its decisions (Constitution of the Islamic Republic of Iran, Articles 34 and 173; Akbari, Rezaei-Zadeh, and Rozi-Talab; Craig, 2021, pp. 591–620; Miran, Al-Buyeh, and Moradi, 2025).

d) The Principle of Speed and Finality of Proceedings

Some also believe that providing for an appellate authority will prolong the disciplinary proceedings and reduce the efficiency of the professional disciplinary system. From this perspective, the finality of the Council's decisions is necessary to maintain speed, stability, and legal certainty. This view emphasizes the necessity of efficiency of the administrative system and the prevention of protracted proceedings (Engineering and Building Control Law, Article 24; Tabatabai Motameni, 2020, Vol. 2; Cane, 2011, pp. 345–355).

Although speed in proceedings is one of the important values of adjudication, this value should not be realized at the cost of eliminating or restricting fundamental procedural guarantees. Contemporary public law emphasizes creating a balance between administrative efficiency and effective protection of individuals' rights. Therefore, providing for judicial oversight limited to reviewing the legality of decisions, while preserving speed and specialization in disciplinary proceedings, also enables the legal control of the exercise of public power and guarantees the right to litigate. Such an approach is also more compatible with the principles of the rule of law and the prevailing practice of administrative law systems (Constitution of the Islamic Republic of Iran, Articles 34, 159, and 173; Miran, Al-Buyeh, and Moradi, 2025; Craig, *Administrative Law*, 2021, pp. 603–620; Cane, *Administrative Law*, 2011, pp. 332–355).

7. Conclusion

The present study was conducted with the aim of critically analyzing Precedent No. 786 dated January 14, 2020, of the General Board of the Supreme Court and assessing its relationship with the principles of public law and the right of access to justice. The main issue of the research was whether the characterization of "final and enforceable" in Article 24 of the Engineering and Building Control Law, by itself, indicates the elimination of the possibility of judicial oversight over the decisions of the Disciplinary Council.

The examination of the foundations of the precedent showed that the General Board's reasoning is mainly based on two pillars: first, the interpretation of the word "final" in Article 24 of the Engineering and Building Control Law, and second, the principle of legality of the jurisdiction of judicial authorities. Both foundations are legally reliable and indicate that the precedent is not based on baseless or extra-legal reasoning. However, the analysis of constitutional principles, public law doctrine, and the rules governing judicial oversight shows that these two foundations do not constitute the only possible interpretation of the law.

The findings of the research showed that the concept of "finality" in Iran's legal system is not a uniform concept with a fixed effect, and in many provisions, it merely indicates the conclusion of proceedings within the same administrative or disciplinary system, not the absolute elimination of the possibility of judicial control. Therefore, inferring the deprivation of individuals from referring to a judicial authority requires an explicit, clear, and unequivocal legal provision, and mere legislative silence regarding the appellate authority is not sufficient to create such a restriction.

Furthermore, the examination of the legal nature of the Disciplinary Council of the Engineering System Organization showed that this Council, despite possessing disciplinary jurisdiction and issuing binding decisions, is not a court of justice in terms of institutional position and the basis of jurisdiction, and falls under the category of quasi-judicial or specialized administrative authorities. Consequently, a distinction must be made between the substantive adjudication of disciplinary violations and judicial oversight over the legality of decisions. Judicial oversight over legality does not mean the replacement of the judicial authority for the specialized authority, but is a tool for ensuring compliance with the law, controlling the limits of jurisdiction, protecting defense rights, and realizing the rule of law.

From a constitutional law perspective, Articles 34, 159, and 173 of the Constitution have considered the right to litigate and judicial oversight as among the most important guarantees for protecting individuals' rights against the exercise of public power. Therefore, the interpretation of ordinary laws must be, as much as possible, harmonized with these principles, and restrictions on the right to litigate are only acceptable in the presence of an explicit legal provision and with narrow interpretation.

Accordingly, the main hypothesis of the research is confirmed. The concept of "finality" in Article 24 of the Engineering and Building Control Law is not suffi-

cient by itself to negate the possibility of judicial oversight over the legality of the Disciplinary Council's decisions, and its interpretation must be carried out in light of constitutional principles, the rule of law, the principle of the general jurisdiction of the judiciary, and the rules governing public law. Therefore, alongside the interpretation that formed the basis of Precedent No. 786, another legal interpretation is also defensible that, while preserving the independence and specialized jurisdiction of the Disciplinary Council, recognizes judicial oversight over the legality of its decisions as one of the guarantees of the law-based state.

Thus, the innovation of this research lies in the fact that by distinguishing between administrative finality and immunity from judicial oversight, and also by distinguishing between merits review and control of the legality of administrative decisions, it offers a reading of Article 24 of the Engineering and Building Control Law that is more compatible with the principles of public law; a reading that can serve as a basis for rethinking judicial practice and legislative reform in the future.

8. Recommendations

Based on the findings of this research, the following recommendations are offered:

1. Legislative Recommendation:

It is appropriate for the legislature, in revising the Engineering and Building Control Law, to explicitly and unambiguously determine the status of appeals against the decisions of the Disciplinary Council and the competent authority for exercising judicial oversight, so as to eliminate the grounds for differences in the interpretation of Article 24 and conflicting judicial practices.

2. Judicial Recommendation:

In interpreting provisions related to the jurisdiction of disciplinary authorities, it is recommended that judicial authorities distinguish between substantive adjudication of disciplinary violations and oversight over the legality of decisions, in such a way that the specialized independence of disciplinary authorities is preserved, but the possibility of controlling compliance with the law, the limits of jurisdiction, the principles of fair procedure, and defense rights is also not eliminated.

3. Legislative-Judicial Recommendation:

It is recommended that the scope and limits of judicial oversight over the decisions of quasi-judicial authorities, especially professional disciplinary councils, be clarified through clear and coherent rules, so that while preserving the efficiency of these authorities, the right of individuals to access justice is also guaranteed.

4. Institutional Recommendation:

Strengthening fair trial guarantees in disciplinary councils, including ensuring the independence of members, observing the principle of impartiality, the right to effective hearing, the right of access to evidence, the requirement for sufficient reasoning in decisions, and observance of the proportionality of sanctions,

can prevent the emergence of subsequent disputes and increase public trust in disciplinary decisions.

5. Research Recommendation:

It is recommended that future research, with a comparative approach, examine the system of judicial oversight over professional disciplinary authorities in countries with similar legal systems, as well as the practice of domestic disciplinary authorities, including the Medical System Organization, the Bar Association, and the Association of Official Experts of the Judiciary, to provide the ground for reforming laws and developing Iran's public law doctrine.

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b) Judicial Precedents:

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