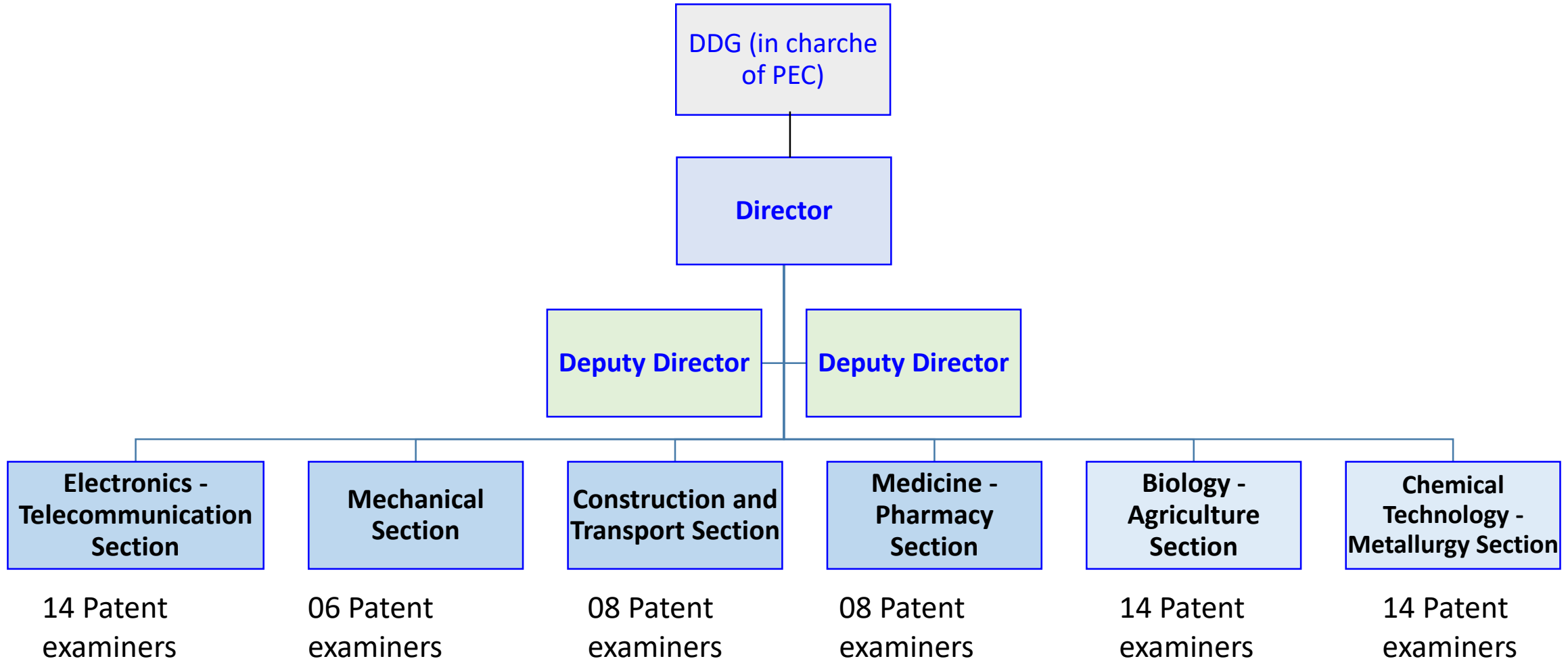# *Outline of the Patent Examination Process at the IP Viet Nam*

**May 2023**
**Intellectual Property Office of Viet Nam**

# Contents

1. Organization of the Patent Examination Center (PEC)
2. Examination Procedure
3. Strategies and Initiavies of PEC

# 1. Organizational Chart of the PEC



DDG (in charche of PEC)

Director

Deputy Director — Deputy Director

| Electronics - Telecommunication Section | Mechanical Section | Construction and Transport Section | Medicine - Pharmacy Section | Biology - Agriculture Section | Chemical Technology - Metallurgy Section |
| --- | --- | --- | --- | --- | --- |
| 14 Patent examiners | 06 Patent examiners | 08 Patent examiners | 08 Patent examiners | 14 Patent examiners | 14 Patent examiners |

# 1. Number of Patent Examiners

Number of staff (IP Viet Nam): **354**

Number of staff of Patent Examination Center-PEC: **72,** of which there are **3** leaders**, 65 patent examiners** (including 01 collaborating examiner), and **4** support staff.

The proportion of women (PEC): **36/72 (50%)**

Newly employed patent examiners:
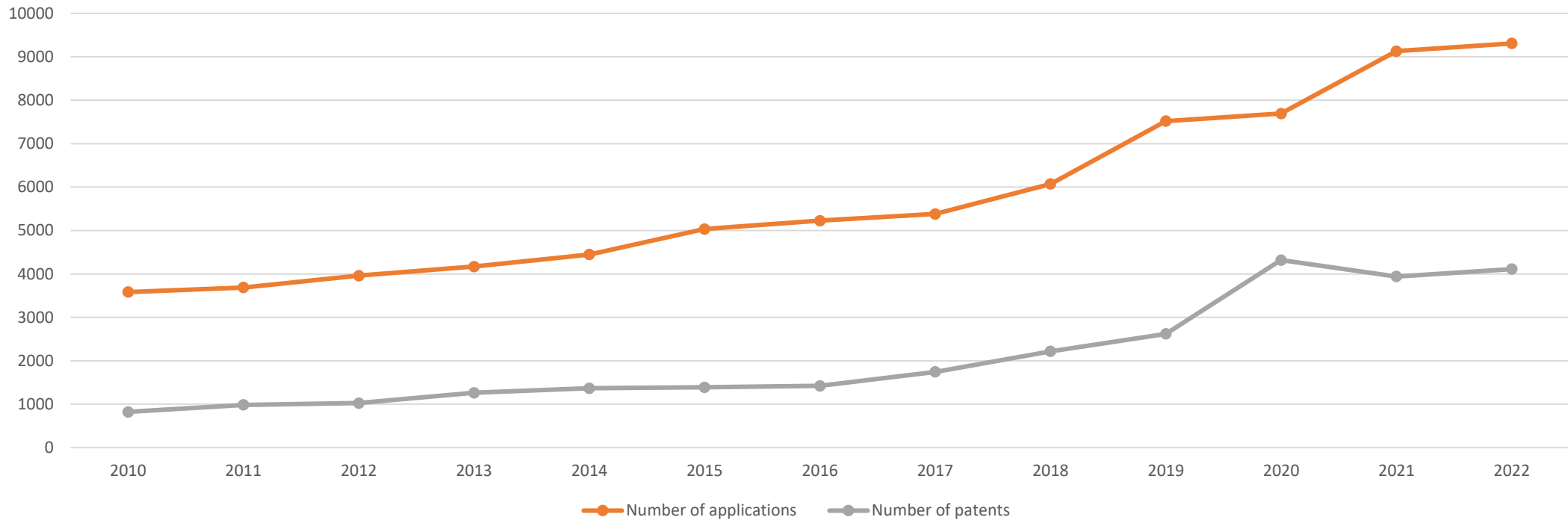
  2016: 8

  2018: 8

  2022: 8

# 1. Results of 2021 and 2022

IP VIET NAM

| Types | Applications filed | | | Subtantive examinations | | | Granted patents | | |
|---|---|---|---|---|---|---|---|---|---|
| | 2021 | 2022 | Comparition | 2021 | 2022 | Comparition | 2021 | 2022 | Comparition |
| Patent/ Utility | 9130 | 9308 | 1.90% | 7625 | 7698 | 3.20% | 3941 | 4111 | 4.30% |
| Patent | 8535 | 8707 | 2.00% | 7190 | 7280 | 1.30% | 3691 | 3868 | 4.80% |
| Utility | 595 | 601 | 1.00% | 435 | 588 | 35.20% | 250 | 243 | -2.80% |

1. In 2022, the number of patent applications filed with the NOIP continued to increase compared to 2021, specifically the number of patent applications filed with the NOIP was 9,308 applications, an increase of 1.9% compared to 2021;

2. Regarding formal examination: The PEC has completed formal examination for 9620 applications, an increase of about 6.8% compared to 2021;

3. Regarding substantive examination: The PEC has finished substantive examination for 7698 applications (of which 4111 applications are granted, 1940 applications for refusals) an increase of about 4.3% compared to 2021.
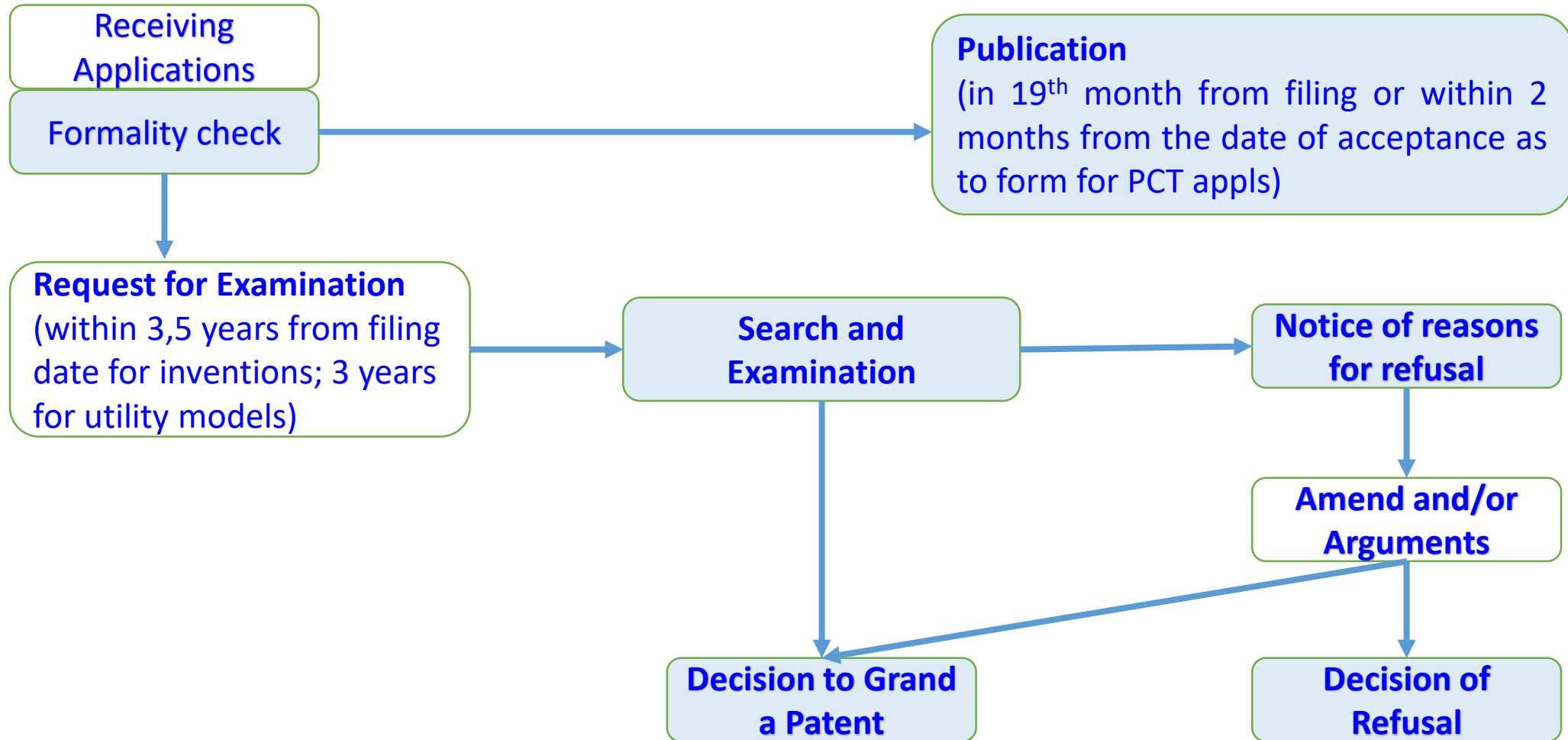
# 1. Trend of Patent Applications
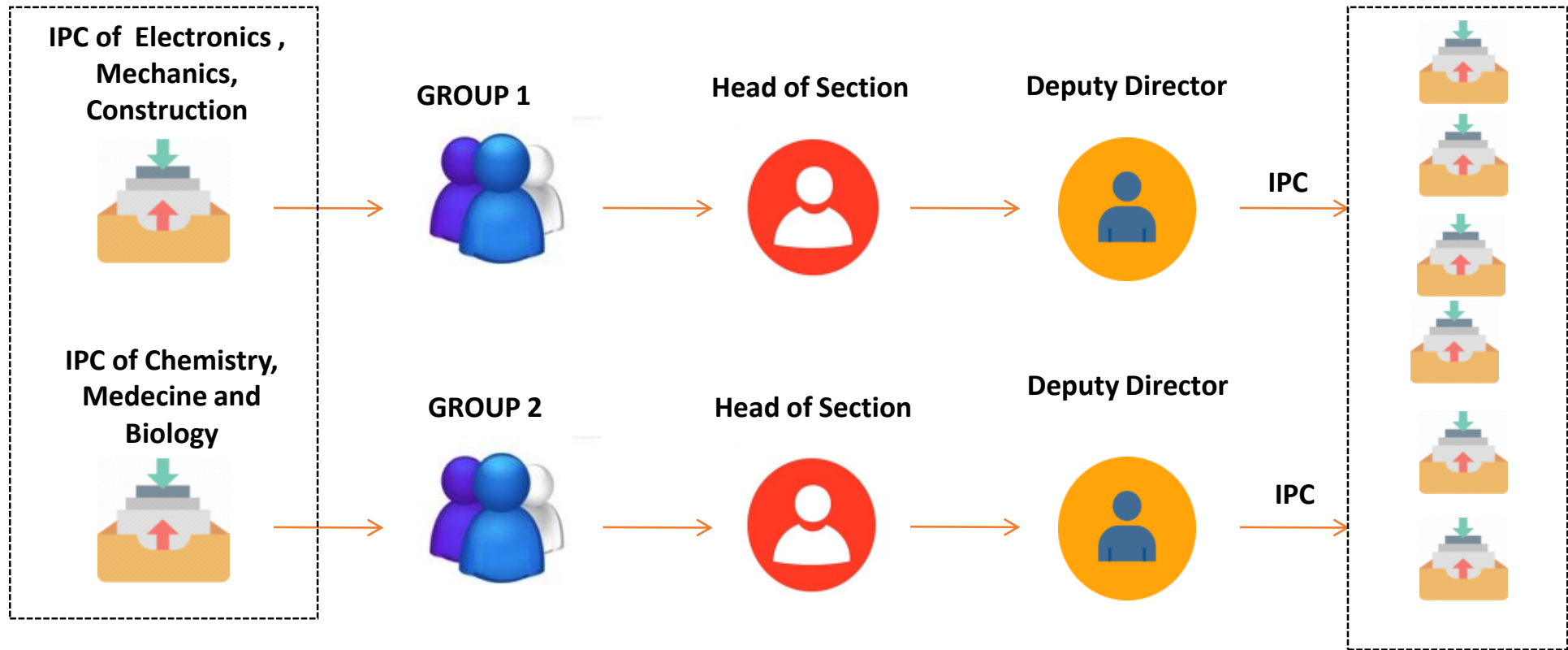
## Number of Anual Applications and Patents



— Number of applications — Number of patents

| Years | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Number of applications | 3582 | 3688 | 3959 | 4169 | 4447 | 5033 | 5228 | 5382 | 6071 | 7520 | 7694 | 9130 | 9308 |
| Number of patents | 822 | 985 | 1025 | 1262 | 1368 | 1388 | 1423 | 1745 | 2219 | 2620 | 4319 | 3941 | 4111 |

1. Organization of the Patent Examination Center (PEC)
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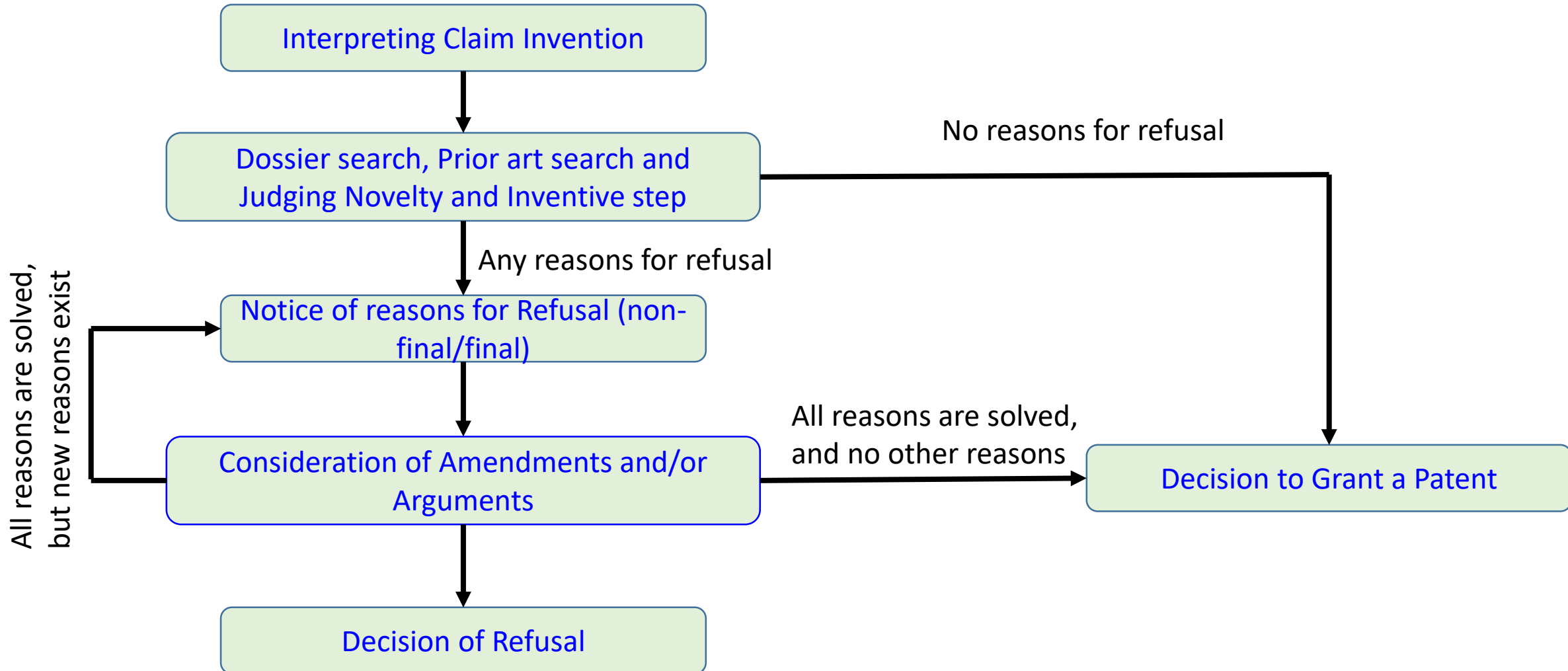
# 2. Overview of Patent Examination Process

Receiving Applications

Formality check

Publication
(in 19th month from filing or within 2 months from the date of acceptance as to form for PCT appls)

**Request for Examination**
(within 3,5 years from filing date for inventions; 3 years for utility models)

**Search and Examination**

**Notice of reasons for refusal**

**Amend and/or Arguments**

**Decision to Grand a Patent**

**Decision of Refusal**

# 2. General procedure of formality check



IPC of Electronics, Mechanics, Construction

IPC of Chemistry, Medecine and Biology

GROUP 1

GROUP 2

Head of Section

Head of Section

Deputy Director

Deputy Director

IPC

IPC

The centralized modality formalities checks for all patent applications, in which all patent examiners have taken part in formalities checks in rotating form, and after completing the formalities checks, all patent applications are stored and monitored by PEC's authorized officials. At the stage of Substantive examination, applications will be allocated to specific sections based on IPC of the applications.

# 2. General procedure of substantive examination

Interpreting Claim Invention

Dossier search, Prior art search and Judging Novelty and Inventive step

No reasons for refusal

Any reasons for refusal

Notice of reasons for Refusal (non-final/final)

All reasons are solved, but new reasons exist

All reasons are solved, and no other reasons

Consideration of Amendments and/or Arguments

Decision to Grant a Patent

Decision of Refusal

# 2. Paper-based Examination

The examination system relies heavily on paper-based control (formality check, storing applications, substantive examination and approval)

1. Organization of the Patent Examination Center (PEC)
2. Examination Procedure
3. <u>Strategies and Initiavies of PEC</u>

# 3. Challenges in 2023

❑ **More than 20,000 pending applications in 2023 vs capacity of handling is about 8,000 patent applications per year;**

❑ **PEC is yet to be given autonomy to run its operation**;

❑ **Prior art searching tools mostly depend on free databases on the internet;**

❑ **New IP amended Law come to effect from 01 Jan 2023, while Legal instruments (Decree and Circular) for prescribing details on the Amended IP Law are yet to be approved; These instruments should have come to effect the same day as IP amended law;**

❑ **IT infrastructure at IP Viet Nam is yet to meet the demand for patent examination**;

❑ **Recruiting new patent examiners is not easy.**

# 3. Main Strategies and Initiatives

❑ **Setting up a plan for processing pending patent applications and the target of closing patent applications for each Department and each patent examiner right at the beginning of the year, taking into account the increase in new applications in 2022**

❑ **Studying and formulating software tools for managing and monitoring the implementation of the plan of each patent examiner in the PEC**

❑ **Promoting the modality of patent examination in groups of 3 people (1 patent examiner, 1 Head of Department, and 1 leader of the Center) for complete settlement of longer pendency patent applications, and complicated patent applications that relate to many technical fields**

# 3. Main Strategies and Initiatives

❑ Enhancing the skill-sharing, and the professional competencies-sharing amongst experienced patent examiners and new patent examiners

❑ PEC's leadership and Heads of Departments regularly urge and remind patent examiners to closely follow patent processing plans, and promptly encourage their efforts

❑ IP Viet Nam launches emulation movement among its units and reward in time individuals that record outstanding achievements in the patent examination for dealing with backlog

❑ Simplifying the process of patent examination, removing unnecessary steps

❑ Unifying, systemizing, and standardizing some forms of notification

❑ Stepping up the decentralization, the allocation of responsibilities in processing patent applications

# Thank you for your kind attention !