Rosa and Ken were both born overseas, and have completed tertiary education. English is Rosa’s second language and she requires the assistance of an interpreter for other than basic communications. Ken is in highly-paid professional employment. They first made contact through an internet dating website, and then met in Europe for a holiday. The relationship developed quickly: Rosa arranged a tourist visa for Ken to stay for a few months with Rosa in her home country where they married and Rosa became pregnant. Ken’s work then took them to another country where they settled briefly—together with Rosa’s high-school aged child from a previous marriage—and their baby was born. Less than a year later, they all moved to Australia, again for Ken’s work. Ken came on a temporary work visa with Rosa (as his wife) and the children as dependents. They separated only two months after arriving in Australia, when the infant was aged six months. Rosa advised Australian Immigration of the separation and related circumstances, and was granted a visa extension. While Rosa was in full-time work in her home country, she has not been employed since her departure.

Rosa explains that she noticed problems with Ken’s behaviour during his first work posting (prior to coming to Australia). Ken began getting angry and upset, they argued often, and on one occasion he smashed a computer. He told Rosa that if she didn’t trust him, the relationship was over. Once a week he would tell her she had to go back to her home country. After their arguments, Ken would tell Rosa he cared for and looked out for her. Yet during her pregnancy, Ken forced Rosa to do various activities that were not comfortable for her. Rosa was reluctant to disrupt her older child’s schooling and opposed the move; it proceeded nonetheless, and the child experienced considerable educational difficulties as a result. Meanwhile, Rosa was having great difficulty learning English as the course Ken made her attend was at too high a level. Once the baby was born, Rosa believes that Ken misled her about citizenship matters so that the child could be granted citizenship of Ken’s home country.

When the family relocated to Australia, Ken began calling Rosa demeaning names, he told her she was stupid, and insisted that she learn and speak English rather than her native language. Again, he regularly told her she had to go back to her home country, but that she must leave the baby in Australia. He said he didn’t want Rosa, only their child. Ken often used the child’s citizenship as a threat to Rosa, asserting that there was no point in her seeking help from police because she had no legal rights in relation to the child. Their first month in Australia was spent in a motel while they waited for their belongings to be shipped. They then moved into an apartment, and Ken soon departed interstate for work. Unexpectedly one evening he arrived home, giving Rosa a fright. He told Rosa he was missing the baby. Rosa says, without thinking, she handed Ken the baby and they went out into the garden while she continued cooking. When dinner was served, Rosa and her older child realised that Ken had left the apartment with the baby. Rosa contacted Ken on his mobile; he told her he wanted a divorce, he was posting her a document, he had paid a year’s rent on the apartment, he would pay her a minimal amount per week, and he was taking the child. Rosa called the police immediately. The police attended and stayed for approximately 20 minutes and tried to reassure Rosa as she was very nervous, upset and concerned because she was still breastfeeding the baby. They told her the child would be okay and could have a bottle. She did not find them helpful and later called the police again. Different officers attended and told Rosa the father had not stolen the child, and the child would be okay with him. Rosa became increasingly distressed, and rang the police a third time, and throughout the following day and night, pleading with them to find the child. She also tried to track Ken down without success.

Eventually, three days later, a police officer advised Rosa to go the Family Court and seek an order authorising that a PACE alert be put on the child’s passport, which meant the child was placed on the airport watch list. A duty lawyer assisted Rosa; it was discovered that Ken had already filed an application for divorce and residence of the child. He alleged in his affidavit material that Rosa wasn’t feeding the child and she tied the child down. Later, when the child was returned to Rosa, both child safety and a psychologist interviewed her and provided reports that found Ken’s allegations were unsubstantiated.

Rosa was granted legal aid to fund legal representation in the child proceedings. Rosa was seeking residence. Rosa saw the child for the first time one and a half months after Ken had taken the child from the apartment; initially she had supervised contact, which had been delayed due to problems locating an interpreter. After a number of Family Court appearances, the child was returned to Rosa’s full-time care and Ken was granted weekly unsupervised contact. Both parents were prohibited from taking the child out of the country and Ken was prohibited from entering the apartment.

With the assistance of a local support service, Rosa obtained a one year protection order; Ken is required to be of good behaviour. Rosa represented herself as she was not entitled to legal aid on that application. She is entirely financially dependent on Ken as she is unable to receive Centrelink benefits and cannot find appropriate work given her limited English and childcare responsibilities. Rosa would have to text Ken weekly to ask for money to cover her living expenses. In response, Ken would repeatedly taunt Rosa by threatening to cancel her visa and take the child. Rosa also discovered that Ken had hired a private detective to follow and watch her.

Australian Immigration contacted Rosa after receiving notice of the divorce querying her intentions. She has sought advice from a community legal service about her visa status, and the implications of her older child turning 18. A student visa for the older child is an option; however a course of study would require funds that Rosa does not have access to.

Ken regularly breaches the contact orders, returning the child to Rosa late. Rosa attempted to photograph his arrival on her phone and he became verbally abusive. Further, in breach of the protection order, Ken bangs noisily on the door to Rosa’s apartment demanding that she open the door and give him the child. On one occasion, the child was sleeping, and Rosa told him to wait until the child was awake. Ken persisted and Rosa rang the police. During his angry outbursts, Ken often slaps himself in the face and pushes himself against railings; he also asks Rosa to hit him. Rosa believes he may have a mental illness. Rosa feels frightened by Ken’s behaviour, and continues to feel highly vulnerable given her financial dependence on him. She is not sure if Ken’s work visa will be renewed. If his visa is not renewed the family will have to leave Australia, most likely to different countries. This is very distressing for Rosa as she fears she may be separated from her youngest child.